Q&A on the 2007-2013 programmes closure

DISCLAIMER: This draft working document is based on questions submitted by national authorities to the Commission in the context of closure workshops. It comprises of draft replies of the Commission. The aim is to provide the Commission's explanations and interpretations of the rules in order to facilitate closure of operational programmes and encourage good practice. However, the answers in no way take precedence over the rules set out in the relevant Union legislation or in the Closure Guidelines

GLOSSARY

AA	Audit Authority
ACR	Annual Control Report
AIR	Annual Implementation report
CA	Certifying Authority
CBA	Cost-Benefit Analysis
CF	Cohesion Fund
CGL	COMMISSION DECISION of 30.4.2015 amending Decision C(2013) 1573 on the approval of the 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)
CPR	Common Provisions Regulation (EU) No 1303/2013 of the European Parliament and of the Council of 17.12.2013
ERDF	European Regional Development Fund
ESF	European Social Fund
ESIF	European Structural and Investment Funds
ETC	European Territorial Cooperation
FIR	Final implementation Report
Gen. Reg.	Council Regulation (EC) No 1083/2006 of 11 July 2006 laying down general provisions on the European Regional Development Fund, the European Social Fund and the Cohesion Fund and repealing Regulation (EC) No 1260/1999.
IB	Intermediate Body
Imp. Reg.	Commission Regulation (EC) No 1828/2006 of 8 December 2006 setting out rules for the implementation of Council Regulation (EC) No 1083/2006 laying down general provisions on the European Regional Development Fund, the European Social Fund and the Cohesion Fund and of Regulation (EC) No 1080/2006 of the European Parliament and of the Council on the European Regional Development Fund
MA	Managing Authority
MCS	Management and Control System
MP	Major project
OP	Operational Programme as defined in Article 2 of the Council Regulation (EC) No 1083/2006 of 11 July 2006
TA	Technical Assistance

Q	Topic	Reference to the Guidelines	Question	Answer
PREPARATION FOR CLOSURE				
1	Point of contact for closure		How will questions regarding different interpretations of the Closure guidance be handled? Will the EC have a single point of contact for closure to which additional questions can be directed during the process?	Closure documents will be handled by geographical and audit units within the Commission. Questions can be sent via geographical units, which will be the main contact points for Member States. They will be assisted by the interpretation teams in DG EMPL and REGIO.
2	Preparation : deadlines		Could the EC provide us with a schedule that takes into account the terms of the Guidelines relating to OPs or priority axes within the OPs?	All deadlines are in the regulatory provisions. The CGL cover the main relevant deadlines. An overview of deadlines is attached to this document.
3	Ex post evaluation		What is the role of the evaluation in the closure process, especially of the ex-post evaluation? The evaluation is not mentioned in the document at all.	There is no direct link between ex post evaluation and closure. Ex post evaluation will be completed by the Commission by 31.12.2015 in line with Article 49 Gen. Reg. It will cover all OPs under each objective in close cooperation with the Member State and MAs. It will examine what cohesion policy is delivering, the extent to which resources were used, the effectiveness and efficiency of Fund programming and the socio-economic impact.
4	Transfer between programmes	2.2	Can we transfer funds within a single Member State and Fund (e.g. transfer from Wales to Scotland ERDF Programme)?	Yes, as indicated in the CGL, any request for amendment of the financing plan involving a transfer between programmes should be submitted by 30 September 2013, in order to allow for sufficient time for the decision to be adopted before 31 December 2013. Annual commitments will not be changed beyond 31 December 2013.
5	Amendment of a Commission Decision	2.2	May the current financing plan, after its last notification, still afterwards be adapted? Is it thus possible to approve projects which are not yet covered by the indicative financing plan? Can we expect that the Commission will authorise these requests, provided that the total expenditure in accordance with the financing plan and the maximum EU contribution rate are not exceeded? Is it the intention of this Regulation not to submit necessarily earlier amendments, but rather only at closure, in order to ensure as much as possible the full absorption	A modification of a programme decision requires a Commission decision. Section 2.2 of the CGL explains until when such a request can be made, but does not specify that each request will obligatory result in a Commission decision. A programme amendment involving an amendment of the financial plan must follow the legal requirement Gen. Reg. and in particular Article 3(3) thereof.
6	Amendment of a Commission Decision	2.2	Re-allocation of funds between priority axes of a programme may be requested until 31.12.2015. These amendments would necessarily relate to already closed commitments in the Union budget (annual instalments). Could you please confirm that modifications of the financing plan in relation to the	This can be confirmed: re-allocations of funds between priority axes of a programme as long as these are under the same objective and components of the objective and the same fund are possible up to 31.12.2015. Already closed budget commitments (annual instalments) cannot be taken into account in the re-allocation of funds. All changes involving commitments must be approved until 31.12.2013 at the latest.

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			priority axes are permitted, as long as the annual instalments contained in the financing plan remain unchanged?	
7	Flexibility	2.2	Are they more information from the EC on possible flexibility? In particular, in view of the end of the eligibility period and, where appropriate, the risk of decommitment, amendment of programmes seem critical in terms of time.	Other sources of flexibility have already been granted in the framework of the amendment by the Parliament and the Council of the Gen. Reg. A 10 % flexibility between priority axes, as foreseen in the amendment of the General Regulation 1297/2013 of 11. December 2013, allows a priority axis to overbook up to 10 % of its budgeted assistance by underbooking in an other (underperforming) priority axis.
8	Amendment of Commission decisions for programmes	2.2	If we decide for a 10% transfer of resources between Funds – does the OP need to be amended?	In the case of transfer between Funds it is noteworthy that the modification decision has to be taken by the Commission before the 31 December 2013 which implies that the request is submitted by the 30 September 2013. In addition to that, no change of resources between ERDF/ESF and CF (and vice versa) is possible as the CF allocation is fixed at national level.
9	Deadline for commitment	2.2	Nowhere does the Gen. Reg. or the implementation Regulation 1028/2006 explicitly define the deadline for commitment (2013/2015).	The Gen. Reg. specifies in Articles 18 and 75 that there are no financial commitments at programme level after 2013 as regards the programming period 2007-13. As for commitments at project level, there are no deadlines specified in the regulatory framework.
10	Amendment of Commission decisions for programmes / Reporting on results	2.2 / 5.2.6	If we find that, in the closing phase of the programme, the actual values of the indicators are different from what is indicated by the "expected value" reported in the OP, should we propose an amendment of the OP or is it sufficient to provide an adequate justification in the FIR?	It is possible to modify objectives and indicators during the implementation if necessary. At closure, in case the reported indicators in the final report appear to divert significantly (i.e. by more than 25%) from the targets set in the programme, the Member State should provide an explanation and a justification which would demonstrate that corrective actions have been taken. Thus the Member State should prepare a short summary of 3 pages at maximum (for the programme as a whole). The reporting is only required with regard to the programme indicators (and not at project level). With regard to the closure of projects, output indicators are to be considered as a measuring tool for the completion of the project according to the grant agreement.
11	Amendment of Commission decisions for programmes	2.2	It is possible to modify the financial plan of an OP up until 31.12.2015 and to move resources from one axis to the other. This last modification might trigger changes to indicators/targets. Is it necessary to modify these parameters and to provide analyses on the reasons for the revision as foreseen under Article 48(3) Gen. Reg.?	A financial modification that triggers a significant change in targets should be justified in line with Article 48(3) even if such a request for modification intervenes at the very last moment (end of 2015) . It is of course not recommended to wait until the last moment to monitor progress and realise that significant departure from the goals will request a programme amendment. If the financial modifications have a limited impact on the targets to be met there is no need to adapt these.
12	Amendment of Commission decisions for programmes	2.2	Is the allocation of economic resources by priority theme (Table 1, Annex II, Imp. Reg.) binding or is it only indicative?	The allocation by priority theme (Table 1, Annex II, Imp. Reg) is indicative subject to compliance at closure with earmarking requirements set out in article 9(3) Gen. Reg. (as a reminder all ESF interventions are earmarked). Indeed, Table 1 of annex II Gen. Reg. goes along with annex IV Gen. Reg. which defines "earmarked" categories of expenditure.

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13	Amendment of Commission decisions for programmes	2.2	Suggestion to suppress the recommended deadline of 30/09/2015.	The recommendation is in the interest of the Member State for the following two reasons: - it allows the Member State to reallocate resources should the Commission refuse an amendment; - it provides certainty to the Member State as for the Commission's commitment to finalise the amendment process by 31.12.2015.
14	Amendment of MP	2.3	Is it necessary to include in the MP decision modification the elements of functionality of phase 1?	As explained under point 3.3 of the CGL, phased projects are exempted from the full functioning requirement ('completed and in use') as long as they can demonstrate that the first phase complies with the conditions set for phasing in sections 3.3 and 3.4 of the CGL.
15	Amendment to MP	2.3	Which projects are concerned by footnote 3 (projects for which an earlier submission of modification requests is recommended)?	This concerns projects within programmes that are sufficiently complex in implementation, so that an early knowledge about resources still to be allocated to projects is necessary in order to optimize the resource allocation (in order to be able to re-allocate the amounts that cannot be allocated to MPs or modification of MPs for which an agreement from the Commission could not be achieved, sufficient time is needed. These amounts should be ideally made available to another project.)
ELIGIBILITY OF EXPENDITURE				
16	Final date of eligibility of expenditure	3.1	Does the fact that the programs may be amended during the period of eligibility of costs (until 31.12.2015) mean that MAs / IBs may sign contracts with beneficiaries during the same period? Can funds be awarded and commitments made also in 2014 and 2015, or do funds have to be tendered by the end of 2013 and the MPs submitted to the EC by the end of 2013?	There is no time limit for selecting operations or tendering, the only limit concerns the eligibility of expenditure. In other words it is possible to adopt operations (incl. MPs) also in years 2014 and 2015, but it should be reminded that the final date for eligibility of expenditure is 31 December 2015 and the expenditure has to be actually paid by the beneficiary by that date in order to be eligible. Member States should be careful when selecting and implementing operations shortly before the end of the eligibility period.
17	Final date of eligibility of expenditure	3.1	How to refund salaries for the month of December 2015 since the expenditures are eligible only up to 31.12.2015 and salaries are supposed to be paid in January 2016?	Member States are invited to foresee mitigating actions beforehand.
18	Final date of eligibility of expenditure	3.1	The final date of eligibility of expenditures is set for 31.12. 2015 – 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?	In accordance with Article 56(1) Gen. Reg., expenditure shall be eligible for a contribution from the Funds if it has actually been paid (by the beneficiary) by 31.12.2015. Furthermore, in accordance with Article 78(1) Gen. Reg. expenditure paid by beneficiaries shall be supported by receipted invoices or accounting documents of equivalent probative value, unless otherwise provided in specific Regulations for each Fund. Article 60(b) stipulates that the MA should verify that the expenditure declared by the beneficiaries has actually been incurred.
19	Final date of eligibility of	3.1	Are continuous performance contracts acceptable for eligibility of services provided in December	Yes, provided the payment by the beneficiaries will be made by the end of the eligibility period.

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	expenditure		2015?	
20	Final date of eligibility of expenditure	3.1	Could the Commission clarify if expenditure will be treated as 'defrayed' expenditure for capital build projects if claimed by the project before 31.12.2015 subject to a retention clause for any problems which may arise in 2016? Could the Commission clarify issues relating to Capital projects and ESCROW accounts? For example where a sponsor has defrayed 100%, but 10% has been paid into an ESCROW account, if the retention period is after 31.12.2015 can the retention amount be declared?	In accordance with Article 56(1) Gen. Reg., expenditure shall be eligible for a contribution from the Funds if it has actually been paid (by the beneficiary) by 31.12.2015. Furthermore, in accordance with Article 78(1) Gen. Reg. expenditure paid by beneficiaries shall be supported by receipted invoices or accounting documents of equivalent probative value, unless otherwise provided in specific Regulations for each Fund. Article 60(b) stipulates that the MA should verify that the expenditure declared by the beneficiaries has actually been incurred. Payments from a beneficiary on an escrow account are not eligible if released after the 31.12.2015. It is only possible to view such payment as a real expenditure in the meaning of Article 13(1) Imp. Reg., if the money is released from the escrow account to the contractor before the 31.12.2015. On the other hand, if the beneficiary pays the contractor in full before the 31.12.2015 and the contractor takes a bank guarantee for the amount foreseen in the retention clause, then this amount is eligible.
21	Eligibility	3.1	Can a project still start on 01.01.2014, 01.02.2014 or 01.03.2014 under the assumption that the authorisation first in 2014 occurs?	Yes, if the final date of eligibility, the 31.12.2015, is complied with (i.e. the beneficiaries have executed the respective payments by this date) and the projects are completed, expenditure shall be eligible for support, provided that the other eligibility criteria are met. The authorisation may therefore also occur in the year 2015.
22	Final date of eligibility of expenditure	3.1	We conclude from the wording, that ERDF funding can still be paid to final beneficiaries after 31.12.2015. Is this interpretation correct and if so, is there a (final) deadline?	In accordance with Article 78(1) Gen. Reg., it is the date of payment by the beneficiary that counts. If the payment takes place before the final date of eligibility, i.e. before 31.12.2015, than the expenditure is eligible. In the case of State aid, the public contribution should have been paid to the beneficiary before the submission of the closure documents.
23		3.1	Is it correct that for interrupted projects, the interruption time applies not only to the commitment deadline and the date of assessment of completion/in use ('functioning projects'), but also for payments and eligibility of expenditure? Can there be situations where a beneficiary declares for a project which remains interrupted and continues after 31.12.2015 eligible expenditure incurred in paid after the eligibility end date?	Expenditure incurred and paid by a beneficiary after 31.12.2015 for a suspended project which was included in the final statement of expenditure cannot be considered as eligible. The only interruptions justified by force majeure will be taken into consideration for an extension of the eligibility period and the deadline for submission of closure documents.
24	Final date of eligibility of expenditure	3.1	As of 31.12.2015, is it sufficient, for the final statement of expenditure, that expenditure has been paid by the beneficiary, or is it also necessary that the corresponding public contribution has already been paid? Is there a final date for the payment of the public contribution by the Region to the beneficiary in case of infrastructure project implemented by the commune or province?	According to a combined reading of Articles 56(1) and 78(1) Gen. Reg.: • The final date for eligibility of expenditure referred to in Article 56(1) Gen. Reg. applies to the expenditure paid by beneficiaries in implementing operations. • The corresponding public contribution may be paid to the beneficiaries after the 31.12.2015. Therefore: • 31.12.2015 is the end date for the eligibility of the expenditure paid by both public and

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				private beneficiaries. • Between 31.12.2015 and 31 March 2017 expenditure from the beneficiaries have to be certified and declared to the Commission. As stated in Article 80 Gen. Reg., the public contribution shall be paid to the beneficiaries as quickly as possible. In addition, as regards state aid, the public contribution shall have been paid to the beneficiaries by the time of submission of the final payment claim to the Commission. • The Gen. Reg. does not foresee any final date for the reimbursement of the public contribution to the beneficiaries but it specifies that it should be paid "as quickly as possible". The latter is not further specified but references established for the programming period 2014-20 can serve as an orientation. The CPR foresees under recital 113 that "beneficiaries should receive the support in full no later than 90 days from the date of submission of the payment claim by the beneficiary, subject to the availability of funding from initial and annual pre-financing and interim payments". Although this only applies to the new programming period, it could be considered as good practice when interpreting "as quickly as possible".
25	Final date of eligibility of expenditure	3.1	Could you confirm that, in accordance with what is indicated in COCOF/09/0025/04-EN, in case of flat rate costs calculated by application of standard scales of unit costs, the proof of actual expenditure by 31.12.2015 should refer to the evidence of the implementation of the project activities by that date, even if the reporting of these activities from the beneficiaries happen later, in analogy to what is expected for the real costs. With reference to the closure of 2007-13 programmes, according to the eligibility of expenditure referred to in Article 11(3) of the ESF Regulation, we ask if payments from beneficiaries are required by 31.12.2015 or, as supposed by the offices, in case measures of simplification are taken, the payments audited by the Commission are only those carried out by regional offices to the beneficiaries.	Yes in the specific case of standard scales of unit costs, the proof of actual expenditure indeed refers to the date of the outcome/result that triggers the payment of the unit cost. In the case of lump sums or standard scales of unit costs, the audit will indeed base itself on the payments paid out by public authorities to beneficiaries, thus will either check that the conditions for paying a lump sum have been achieved or seek for evidence that the units to which the standard scales are applied have been effectively implemented. The units and lump sum actions constituting the basis of this payment must, thus, have been completed by 31.12.2015. In the case of indirect costs declared on a flat rate basis of the direct costs of an operation, that direct expenditure which the flat rate applies on has to be paid by beneficiaries by 31.12.2015.
26	Final date of eligibility of expenditure	3.1	Regarding call for grants to consortia of companies that jointly develop projects (where a company acts as the leader and responds for all of them), is it a prerequisite that the leader has distributed all the aid received to the other partners before the declaration of expenditure?	No, this is not a prerequisite. But the MA must verify that the expenditure declared has actually been incurred and paid by the lead beneficiary or his partners and that this expenditure is supported by receipted invoices or accounting documents of equivalent probative value.

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27	Final date of eligibility of expenditure	3.1	For contract of TA with services to be provided to the MA after the deadline of 31/12/2015, can payments be made before 31/12/2015 based on a bank guarantee? The invoice would be issued at a later stage once the service has been provided? Same question for supervisory work taking place between the eligibility end date and the date for submission of closure document.	The payment of the advances just before the deadline for eligibility of expenditure should not be common practice as it entails a high risk of non-delivery. Nevertheless, in the case of public procurement an advance payment from a beneficiary to a contractor (for instance a provider of TA) against a bank guarantee paid before the eligibility end date is eligible and can be certified to the Commission **if the service and/or the work covered by the payment is received and its compliance is assured at the time of submission of the closure documentation.** Under these conditions, a payment from the beneficiary to the contractor against a bank guarantee can be considered as a payment by a beneficiary in the implementation of an operation in the meaning of Article 78 (1) Gen. Reg. provided the conditions for advance payments are foreseen in the contract and are in compliance with applicable national rules or contractual practises. The invoice for the advance payment has to be issued and paid before the eligibility end date together with the bank guarantee. It is important to insist on this last sentence: it is **only in case national rules or contractual practices already foresee that supervising works/TA service/other type of service/work are subject to an advance payment** that these payment modalities should be applied for the payment of the work/service to be provided between the end date of eligibility and the date of submission of closure documents. Would this not be the case (i.e. would a Member State adapt the payment modalities of supervisory contracts/TA only for the end of the eligibility period) the Member State's proposal would be considered as aiming at circumventing the eligibly end date. To summarise, in order to consider advances as eligible the following three conditions have to be fulfilled:. • compliance with national rules and contractual obligations; • in any event, the advance payment has to be converted into actual expenditure before closure; • such "conversion" would need to occur in due time preferably by 30.06.2016 to allow the MA to verify the expenditure and that the works/services have been performed and to allow the AA to cover this expenditure in their sample in time for closure declaration.
28	Final date of eligibility of expenditure	3.1	Can the Commission confirm that all expenditure incurred before 31.12.2015 and relating to operations that will be finalised before the date of closure will be considered eligible?	Expenditure is considered eligible if incurred and paid by 31.12.2015. Incurred means expenditure related to activities that have been provided before the 31.12.2015. An operation can be composed by several activities. An operation can be finalised after the eligibility end date but the payments made for activities that are realised after that date are not eligible
29	MPs	3.2	For MPs which count with a Decision of Aid granted with a financial deficit that has been later recalculated, is it necessary to submit an application for modification of the Community Contribution? If yes, in which cases?	See COCOF guidance 13-0089-01, section 4.1: 'A modification is only triggered in those cases where changes of physical object, eligibility rules, or legislation/technical standards at EU or national level lead to an increase of the decision amount.' Deductions due to additional sources of net revenues are done at the latest at the time of submission of closure documents in application of Article 55(4) Gen. Reg. but do not

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				necessitate a modification of the decision.
30	Eligibility rules applicable to MPs	3.2	Clarify the concept of a project in use. How to evaluate the seriousness and insufficiency of the performance of a project?	A project could be in use but underperforming in relation to the targets set in the decision. A new railway is in use but does not attract sufficient passengers; a museum has opened its doors to the public but fails to attract sufficient visitors, etc… Although the project is in use and therefore considered as eligible, the underperformance will need to be highlighted in the final report together with strategies developed to address the issue.
31	Eligibility rules applicable to MPs	3.2	What to do when there is a retention guarantee that will not be paid before the 31.12.2015 but that could be paid before 31.03.2017? Shouldn't we recognise this category of projects that are completed and in use by 31.12.2015 but not yet totally paid (guarantee retention) but that will be paid either on the MS' own resources or under the programming period 2014-20. The project would be recognised as completed and in use but its financing would be split in two lots, the first one falling under the 2007-13 programme, the second one falling under 2014-2020, or in case of non-compliance with the new programme, being covered by MS own resources. Can such a project be included in the final payment claim?	The project as such and the payments to the beneficiary that have been paid before end of 2015 could be included in the final payment claim. However, any payment that has been done after the end date of eligibility cannot be included in the final payment claim. If this payment is not linked to services and works incurred in the 2014-2020 it cannot be included in the programming period 2014-20. According to the guidelines it is, however possible to phase a project that has two clearly identifiable stages as regards its physical and financial objectives. However, payments linked to the defect liability period (retention guarantee) cannot, alone, constitute phase 2 of a project. It would be, however, possible to allocate a physical object to each phase of a project and to include payments linked to the defect liability period into the second phase, when the overall objectives of the project have to be achieved. If a project is not phased, it must be completed and in use by 31.03.2017 (in exceptional case by 31.03.2019 for non-functioning projects). If the retention guarantee is paid after the 31.12.2015, it must be paid indeed by the national budget and cannot be declared as eligible expenditure.
32	Eligibility rules applicable to MPs	3.2	To include the non-functioning or interrupted MPs in the closure documents: could you please confirm that the procedure is as follows. For the remaining unspent appropriations, a suspension of the commitment will be requested (current settlement risk). We will give information on what the total allocation of those MP is (potential risk in case the additional 2 year period would be missed). For those MPs, the already declared expenditure in interim payment claims will remain included in the statement of final expenditure (no recovery of interim payment requests as long as the finalisation of the project in the additional period is allowed).	For MPs within the meaning of Article 39 Gen. Reg., where there is a risk that the project may not be completed on time, a procedure exists, namely the phasing of MPs over two programming periods (CGL, point 3.3). In addition, there is the possibility for the Member State to complete the MP within the current period by 31.3.2019 by making use of the exception under point 3.5 of the guidelines, as long as the conditions listed there are met. However, at closure open commitments of an OP should be covered by eligible expenditures paid and incurred by the beneficiary before the eligibility end date 31.12.2015. All amounts concerning operation not declared at closure will be decommited, except for the amounts that the CA has not been able to declare because of operations suspended due to legal proceedings or an administrative appeal having suspensory effect or for reasons of force majeure. The eligible expenditures declared for a MP not finalised at closure will not be recovered at closure if the project takes advantage of the exceptions provided by sections 3.3 to3.5 of the CGL (phasing or non-functioning projects).
33	Definition of completed project / (non-functioning	3.2 / 3.5	We would like to ask for the definition of a project "completed" and "in use".	Article 2(3) Gen. Reg. defines an 'operation': a project or group of projects selected by the MA of the OP concerned or under its responsibility according to criteria laid down by the monitoring committee and implemented by one or more beneficiaries allowing achievement

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	project)			of the goals of the priority axis to which it relates. The CGL follow these regulatory provisions, specifying in chapter 3.2 when a MP is considered to be eligible and functioning: "Activities actually carried out" means : - that no further activities are required to complete the operation; - that works are completed and received in conformity with the requirements foreseen by the national legislation and/or in the grant agreement. The national rules on reception of works shall therefore be followed in order to assess the completion of projects.
34	Phasing of MPs	3.3	What type of expenditure can be included in phase one? For instance preparation (planning phase) and initial works? Starting and final dates of eligibility of expenditure for phase 2?	The CGL define that phasing needs the definition of two clearly identifiable phases from a physical and financial point of view. If the preparation and initial works can provide such a clear identifiable phase, then they can constitute phase one of a MP. Phasing should not be applied if each phase of the MP represents a stand-alone project. The final date of eligibility of expenditure under phase 1 is 31.12.2015. Eligibility of expenditure under phase 2 may start from 01/01/2014 provided they relate to the activities necessary to achieve the specific financial and physical scope defined in phase 2. The final date of eligibility of expenditure under the 2014-2020 programmes is 31.12.2023 as specified under Article 65 of Reg. 1303/2013 (CPR).
35	Phasing of MPs	3.3	Will appropriate procedure for MPs' financing in period 2014-2020 be prepared by EC? According to point 2.3 of the CGL: Member States should communicate to the Commission by 30 June 2015 a list of MPs which they propose to divide into phases. Will be developed detailed decisions/regulations in this area?	The COMMISSION IMPLEMENTING REGULATION (EU) 2015/207 of 20 January 2015 is laying down detailed rules as regards the models for the progress report, submission of the information on a MP, the joint action plan, the implementation reports for the Investment for growth and jobs goal, the management declaration, the audit strategy, the audit opinion and the ACR and the methodology for carrying out the CBA and pursuant to Regulation (EU) No 1299/2013 of the European Parliament and of the Council as regards the model for the implementation reports for the ETC goal. Decision templates are prepared currently by the Commission and will be communicated to the Member State.
36	Phasing of MPs	3.3	What is meant by "necessary legal and financial commitment" to be made "in order to complete and render operational the second phase under the 2014-2020 period" (fifth bullet point under 3.3)?	In its FIR, the Member State should make a reference to the amounts committed in favour of the second phase of the project and confirm that all the legal procedures/checks to be conducted (tendering, specific authorizations, compliance with the 2014-2020 OP…) for the implementation of the second phase are fulfilled. The second phase of the MP has to be consistent with the objectives and the content of the programme concerned and should be approved by the MA respecting project selection criteria approved by the monitoring committee. The MP application or notification will be treated in accordance with the provisions of the Common Provisions Regulation applicable to the 2014-2020 period.
37	Phasing of MPs	3.3	Please, describe the phasing of MPs over two programming periods procedure, step by step.	Phasing is a complex approach and should be implemented carefully. Nevertheless, phasing allows splitting of a MP implementation over two programming periods in order to achieve the completion of the MP without compromising the project's overall scope and avoiding incomplete (and thus non-eligible) MPs. When a MA decides to apply for phasing of MPs, the following steps should be followed: 1. Identification of phasing needs (informal screening, a list of MPs to be phased

Q	Topic	Reference to the Guidelines	Question	Answer
				submitted to the Commission) 2. Amendment of a MP decision to allow phasing and definition of the first phase 3. Approval of the second phase (in line with CPR 2014-2020) 4. Closure of the first phase (in accordance with the CGL) 5. Closure of the complete and functional phased project (in accordance with CPR 2014-2020). It is up to the Member State to define phases for the operation proposed for phasing. A phase should have a specific and identified physical object (which could be audited) and allocated amount. Phasing of MPs is subject to a Commission decision via a new or modification of a MP decision. A MA should check that the project complies with the conditions for phasing, namely financial volume, definition of two stages, the first phase is completed and finally, the second phase is eligible under the 2014-2020 eligibility rules and it is selected under the new programme and legal and financial commitments have been taken for the second phase.
38	Phasing of MPs / Non-functioning projects	3.3 / 3.5	Do we understand correctly, that if a phased part of the project is implemented in the programming period 2014-20 with purely national (budget or private) resources the EU structural funds accountability or other requirements are not applicable?	Under the phasing scenario the second phase of the project is supported by the Structural Funds and/or the CF under the programming period 2014-20. If the second phase is not co-financed by the EU resources, a project cannot be considered as phased over two programming periods. The Member State may complete the project with national resources. If it is completed before the final date for submission of the closure documents it does not need to be listed as non-functioning project. If it is not completed by 31 March 2017 at the latest, it should be listed as non-functioning project, reported upon every six months and completed with the national resources before 31 March 2019.
39	Phasing of MPs	3.3	When a MP is split into phases, one of which will be implemented in the 2014-2020 financing period, and the application is submitted to COM, should the financing plan provided in the section H of the application form (Annexes XXI of the Commission Imp. Reg.) reflect the estimated cost for the entire project or a particular phase, which will be implemented in 2007-13? In case the financing plan is set for the entire project, how would COM distinguish between the investment costs of particular phases when approving only one/some of it in the current programming period? The request for confirmation of assistance submitted to EC via SFC2007 has to be submitted for the whole duration of project or will it be necessary to submit separate requests for each phase? Would it be technically possible in SFC2007	As stated in the COCOF note on MPs spanning over two programming periods, "the MP application should provide the description of the phase which will be implemented in the programming period 2007-13 and make reference to the subsequent project phases and their implementation timetable in view of the completion of the entire project." If a MP implementation starts in the programming period 2007-13, even if the Member State intends to phase this project, it has to fill in a MP application for the whole project, including the phase to be implemented in the 2014-2020 period (Annex XXI or Annex XXII Imp. Reg.). Both phases should be calculated together in order to establish total eligible costs. However the Commission decision adopted on the basis of Article 40 Gen. Reg. will specifically cover phase one of the project. Where the division into phases is necessary, the MA should specify the criteria which have been used to determine the division of the project into phases (section B.4.1 points (b) to (c)). Where the CBA and EIA procedure relate to the whole project then separate CBA and EIA may not be required for each phase, though this is to be assessed case by case. The total cost should correspond to a project, seen as a self-sufficient unit of analysis, for which the CBA and EIA assessment are carried out.

Q	Topic	Reference to the Guidelines	Question	Answer
			to submit request for confirmation of assistance with the timetable of implementation going beyond 31.12.2015?	Finally, phase two will be examined under a different legal basis (CPR and Fund-specific regulations). If the precondition that an operation comprises "a series of works, activities or services intended in itself to accomplish an indivisible task of a precise economic or technical nature which has clearly identified goals" is fulfilled and its financial volume reaches the ceilings provided in the CPR, then it is a MP. As regards the approval of the second phase of the MP in the programming period 2014-20, a new MP application (or a notification) will have to be submitted to the Commission. If the conditions of Article 103 CPR are met, the Member States will benefit from the simplified approval of the second phase of a MP, i.e. without the requirement for an assessment of the information by independent experts. SFC2007 will be prepared for the possibility of receiving project applications divided in phases where completion of the project will be achieved in the programming period 2014-20.
40	Phasing of MPs / Non-functioning projects	3.3 / 3.5	Could you please specify the criteria of phasing in more detail – when two phases of the project (e.g. two railway sections) should be treated as 1 project and when it could be considered as two separate projects? Could you please provide some practical examples? As situations of possible artificial division of the projects may occur at programming period 2007-13 and 2014-20, i.e. in the planning stage of a new (possibly MP) and not necessarily as a consequence of the screening procedure, a clarification from COM side on project's artificial division, i.e. some elaboration on the key principles and/or criteria for identifying an artificially split project, would be of great significance, as this would contribute to better management of risks of such projects during this and 2014-2020 financial perspective. More clarification is needed with regard to the *unplanned phasing* of MPs (i.e. when a project is delayed despite the substantial progress in its implementation, leaving only a small part of the Project unfinished at the end of the programming period) and the procedure to be followed in such cases and if any possibility of continued financing is considered. Do such cases fall under 3.5 non-	Conditions for acceptance of phasing are given in point 3.3 of the CGL. It is customary that a project may need from the start to be divided into phases, for example, due to budgetary, time or technical constraints. In this case, the Member State or the MA should submit an application on the basis of Article 40(d) Gen. Reg., dividing the project into phases so that certain phase or phases can be completed within the programming period 2007-13, leaving the implementation of a subsequent phase into the next period. Phasing should not be applied if each phase of the MP represents a stand-alone project. This is the case for the MPs where the results of implementation would lead to the completion and functionality of less ambitious targets than originally expected (i.e. it would be possible to reduce the scope without compromising qualitative aspects) - for instance, instead of 50km of road, only 40km is built and it would be functional (i.e. completed and in use) by the deadline for the submission of the closure documents. In such a case, the scope reduction would be accompanied by a reduction of the Funds' contribution. Without prejudice to the definition of a MP, if the reduction of the scope of a project is possible so that the reduced project is completed and operational, phasing is not the appropriate solution. Phasing such projects which can be split in two standalone projects would induce an unnecessary burden of follow up. In case of an unexpected implementation problem leading to the situation when a MP is unfinished by the end of eligibility date (end of 2015), the Member State may choose one of the following options: • to withdraw the project; • to phase the project respecting all rules of section 3.3 of the CGL (namely, a modification request should be submitted by the end of September 2015); • to complete the project with national resources before it will submit closure documents (by 31 March 2017);

Q	Topic	Reference to the Guidelines	Question	Answer
			functioning projects?	• to consider the project as non-functioning at closure (if conditions specified in section 3.5 of the CGL are met) and complete it with national resources before 31 March 2019. By including the expenditure paid for non-functioning projects in a final statement, a Member State commits to complete all such non-functioning projects not later than two years after the deadline for submission of the closure documents and to reimburse the Union co-financing allocated in case of non-completion of such projects by the two year deadline. The Member State should provide the necessary information on the completion and operational aspect of these projects retained in the programme on a six-monthly basis.
41	Phasing of MPs	3.3	Can we consider the trial operation or the defect liability period for infrastructure projects as an independent phase which can be financed in the 2014-2020 period?	The CGL define that phasing needs the definition of two clearly identifiable phases from a physical and financial point of view. The defect liability period cannot by itself constitute an independent phase. The retention guarantee paid after the trial or defect liability period can be part of a second phase if it can be allocated to physical and financial object that has been completed during the eligibility period of the second phase.
42	Phasing of MPs	3.3	Is there any time frame set for the assessment procedure of requests for phasing MPs submitted by MS at COM level?	A Commission's decision of MPs which are going to be phased should be amended by the end of 2015. Therefore it is recommended to submit a request for an amendment by 30 September 2015. There is no simplified procedure foreseen for amendments of MPs to be phased and the same time limit as for the approval of MPs is applicable, i.e. "as soon as possible but no later than three months after the submission by the Member State or the MA of a MP, provided that it is submitted in accordance with Article 40”.
43	Phasing of MPs	3.3	If a MP, which has been appraised by COM, has to be phased, does the MP application (including CBA, IEA) which was already submitted to and approved by COM, have to be revised and re-submitted or there could be a simplified procedure for amending the related information (including COM decision) of such MP established? In case of project phasing without impact on the financing gap, is it nevertheless required to prepare a revision of the CBA as a part of the application for modification of an EC decision?	In line with the COCOF note 13/0089/01 on the amendment to MP decisions and its impact on the exceptions to the automatic decommitment adopted on 27 July 2013, "any request for modification of the physical object of the MP will be subject to a case-by-case assessment by the Commission services, in particular in case of phasing of MPs". In the case of phasing, a Commission decision on the MP has to be amended. Therefore, the Member State should submit a revised application form through SFC 2007 in order to request the amendment to a MP decision. The original application should be updated and the proposed amendment should take into account revised project details including a possible update of certain documents or procedures such as the original CBA, environmental impact assessment, studies, permits, technical justifications, if certain parameters of the project or the conditions of implementation have changed significantly. The Commission will examine the request for amendment/new application for the phased MPs on a case by case basis with regard to the requirements of Articles 40 and 41 Gen. Reg. and it should adopt the decision on the MP within three months. As stated already in the COCOF guidance note (12-0047-03) on MPs spanning over two

Q	Topic	Reference to the Guidelines	Question	Answer
				programming periods, a separate CBA may not be required where the CBA relates to the whole project. The Re. (EU) 1303/2013 foresees under Article 103 a simplified approval procedure for phased projects if there are no substantial changes to be reported (no quality review by independent experts required).
44	Phasing of MPs	3.3	Before including a phased project in a proposal for modification of an OP, is it necessary to obtain first a formal agreement of the EC on the proposed phased of a MP?	If the phasing has an impact on the OP objectives the agreement on the modification decisions (OP and MP) can be obtained in parallel.
45	Phasing of MPs	3.3	Moreover, if 1st phase of the MP financed in 2007-13 was approved by COM, would there be a possibility to apply independent quality review for the phases to be implemented in 2014-2020?	For the 2014-2020 period, a new regulatory framework is applicable with regard to MPs (it concerns for instance a new method of calculation when defining MP, increased threshold and new methods of approval/notification procedure, etc.) Article 101 of the CPR foresees the possibility for MS to ask for a quality review by independent experts. In the case of phasing, however, no independent quality review is required if specific conditions are met (Article 103 (2) of the CPR). The approval of the second phase is thus facilitated and accelerated.
46	Phasing of MPs	3.3	How to measure indicators in case of phasing? Shall we keep track of only (proportionally decreased) result indicators for the first phase? (Impact could be considered only after completion of both phases).	It is highly probable, that in case of phasing, not all indicators, originally expected to be met, will be reached at the closure of the first phase. Nevertheless, the Imp. Reg. requests for the MPs, including phased ones, to report on "their key output and result indicators, including, where relevant, the core indicators laid down in the Commission decision on the MP" in the FIR. For the phased MP, a Member State should elaborate a MP modification request or a new MP application referring to phasing. Such a request should include two clearly identifiable phases from a physical and financial point of view, it should specify the criteria that have been used to determine the division of the project into phases and it must allow auditing the MP phases individually with regard to their physical objects, the allocated amounts and the results achieved. Moreover, a MP modification may also include a proposal to (re-) define the relevant indicators on the basis of a case-by-case assessment carried out by the beneficiary and MA.
47	Phasing	3.3 / 3.4	Is it possible to use the resources of the new programming period to continue projects started in the current one (at the turn of the two programming periods)?	It is possible if provisions set out in the CGL for phased projects are strictly complied with (one of these being the EUR 5 million threshold for non-MPs). Therefore, a MA should check that the project complies with the conditions for phasing, namely financial volume, definition of two phases, and the second phase is eligible under the 2014-2020 eligibility rules and it is selected under the new programme and legal and financial commitments have been taken for the second phase.
48	Phasing of non-MPs	3.4	Does phasing of a project require the approval of the Monitoring Committee regarding the criteria for selection of operations, a new call for proposals to be launched, the beneficiary to submit a new	The amending of the initial contract could be useful for the closure of the programming period 2007-13. The phasing of a project does not exempt the beneficiary from a selection process for the second phase of that given project (new application, check against the criteria for selection of the 2014-2020 OP, specific contract/grant agreement covering provisions relating

Q	Topic	Reference to the Guidelines	Question	Answer
			application form, to reassess and sign a new contract? Or it is possible just to amend the contract with the beneficiary for the "phased" project, concluded in the framework of the current programming period?	to the second phase and, where necessary, to the entire project…). MS potentially have the possibility to simplify certain steps of the 2014-2020 procedure to avoid unnecessary administrative burden. The approach should be consistent with the requirement of the second phase to meet the applicable provisions of the 2014 – 2020 period, but at the same time the process should not be formalized to an extent to impede the implementation of the second phase.
49	Phasing of non-MPs	3.4	Are there exceptions to this rule (e.g. no minimum costs per phase or smaller amounts)?	Section 3.3 and 3.4 provides an exception to the rules for projects with total costs exceeding EUR 5 million since the costs of the administrative burden for projects below EUR 5 million are seen as less proportionate to the benefits, and Member States should be able to finance those projects with their own resources in the remaining period between the deadline for submission of the closure documents and the final date of eligibility. A removal of the exception status by a general opening of phasing to all projects would run against the principle of a programme closure.
50	Specific rules for phasing of non-MPs over two programming periods	3.4	Is it correct that the threshold of EUR 5 million relates to the total costs of the project to phase and not to the cost of each phase? In the list set out in Annex IV of the guidelines, only the actually incurred eligible expenditure of the sub-project co-financed during the programming period 2007-13 should be reported in column 5. How will it be verified whether the above threshold has been complied with?	The above-mentioned exception refers to projects and not to phases of a project. In the case of a phasing, the competent authorities of the Member States must be able to prove, upon request, that the threshold for the total amount of the project has been respected.
51	Phasing of non-MPs	3.4	At what moment should be the EUR 5 million threshold relevant (authorisation or certified statement of expenditure)?	At the time of the authorisation, the project should have a total cost of above EUR 5 million. Statements of expenditure are available only ex-post, i.e. after completion of the first part of the project. It is therefore possible that projects which were granted with total costs exceeding EUR 5 million, have committed during the implementation less than the total expenditure that would have comply with the phasing criteria.
52	Phasing of non-MPs	3.4	Some of the key roles of TA (e.g. programme evaluation, reporting, audit) for the programming period 2007-13 expand over the delay of 31.12.2015 until the closure of the programme in March 2017. We assume that, similar to the the previous period's rules, the cost for the TA's tasks of the programming period 2007-13 that occur after the 31.12.2015, may be financed from the appropriations for TA under the new period. Therefore, for some of the TA projects, there is a	TA projects fall, therefore, under the same rules as for all other projects. TA projects, even more than investment projects, are organised in such a way that they don't allow for an earlier completion. Therefore it makes little sense to introduce lower thresholds for such projects. The 2007-13 closure expenditure can only be eligible for support in the programming period 2014-20 if it meets the eligibility criteria of that period. Experiences from the previous programme closures are, however, of enormous benefit for the implementation of the next programming period and can therefore be considered as technical learning assistance.

Q	Topic	Reference to the Guidelines	Question	Answer
			need for phasing over two programming periods. The conditions set out in Section 3.4 of the guidelines for the phasing of projects into two tranches are however not available for TA projects. The Commission is therefore asked to confirm that the requirements of Section 3.4 shall not apply in the case of TA projects financed over two programming periods.	
53	Phasing of non-major projects	3.4	Since it is possible to conclude agreements with beneficiaries also during 2015, is it possible even in this period to approve projects which would require phasing into 2 periods? How to proceed if the first phase is not successfully concluded by 31.12.2015?	Yes, it is possible to adopt operations and MPs also in years 2014 and 2015, but it should be reminded that the final date for eligibility of expenditure is 31.12.2015 and therefore expenditure has to be paid by beneficiaries by that date to be considered eligible. Normally, all operations should be completed and in use within one programming period and within the respective budget. If an operation is not completed by the end of 2015, a Member State may proceed in the following ways: • to cancel the project and acknowledge that expenditure is not eligible (withdraw it from the final statement of expenditure); • to complete the project with national resources before it will submit closure documents (by 31 March 2017); • to phase the project over two programming periods respecting all rules of the sections 3.3 of the CGL (in the case of MPs) or 3.4 (in the case of "normal" operations); • to consider the project as non-functioning at the closure (section 3.5 of the CGL) and complete it with national resources before 31 March 2019. If the first phase is not completed by 31 March 2019, the Commission will proceed with the recovery of the funds allocated to the whole project. For phasing, it is up to the Member State to define phases for such an operation. In the case of MPs, phasing is subject to the Commission decision; therefore the process includes project modification or submission of a new MP application. At the end of the programming period, namely in years 2014 and 2015, Member States should make an assessment whether a MP to be submitted to the Commission would be completed and in use at the submission of closure documents or if phasing application making a reference to the 2014-2020 period would be more relevant or the MP would be implemented in the 2014-2020 completely, without any phasing from the programming period 2007-13. Section 2.3 of the Guidelines recommends the submission of modification requests by 30 September 2015 at the latest in order to get assurance that the modification is acceptable before the eligibility end date. If there is a need to phase a non-MP, beneficiary and MA should agree on the specific provisions which would lead to the amendment of original project decision, but the operation has to be completed in the 2014-2020 period. Namely, the physical (intermediate milestones, progress report, etc.) and financial objectives have to be defined and they would be included

Q	Topic	Reference to the Guidelines	Question	Answer
				in the grant agreement.
54	Phasing of non-MPs	3.4	Provided that a decision on phasing of a project is taken, is it mandatory that the support by the programming period 2014-20 starts from 01.01.2014 or the support from the programming period 2014-20 may start at another date, until the resource in the period of eligibility of costs of the programming period 2007-13 is depleted? For example, would it be acceptable phasing of a project that is set up to 31.03.2015, with support from the programming period 2014-20 starting from 01.04.2015, while so far the funding is from the programming period 2007-13?	There is no obligation for the date of eligibility of the second phase to be strictly aligned with the starting eligibility date of the programming period 2014-20 provided that the cut-off date is clearly and consistently mentioned in all the binding documents related to the EU support to that given project (grants agreements for phases 1 and 2 for instance) in order to avoid double financing. Thus, it is not obligatory to start the second phase from 1.1.2014. It is nevertheless important to remember that phasing based solely on a financial split is not possible. It is therefore not possible to consider that phase 2 starts "when the resources under the programming period 2007-13 are depleted".
55	Phasing of non-MPs	3.4	"MPs" are defined explicitly in Article 39 Gen. Reg. and it is clear that they are co-financed by the ERDF and / or CF; but "small projects" are not defined. Does the fact that phasing is allowed for small projects mean that they also can be co-financed by the ESF? If phasing of projects, co-financed by the ESF, is possible, then do they have to comply with the applicable provisions for the 2014-2020 period? It is implied, but not explicitly stated	Provisions laid out in section 3.4 of the CGL cover non-MPs irrespective of the fund (ESF or ERDF/CF). Nevertheless it should be reminded : • that a "small project" below the EUR 5 million threshold cannot be phased; • that operations in relation to FEIs cannot be phased. In practice, projects co-financed by ESF are very unlikely to be concerned by phasing. In the guidelines it is noted that the second phase should comply with the applicable provisions of the 2014 - 2020 period. This is indeed one of the prerequisite to be checked upfront in any case before resorting to the phasing of a project.
56	Phasing of non-MPs	3.4	When considering the **phasing of a R&D project** how would the Commission define 'two clearly identifiable stages from a physical and financial point of view' for such a project? Will the Commission provide a checklist of the characteristics a phase would need to demonstrate in order to qualify for phasing, and how far will they test this? Can we have more detailed guidance on how we would demonstrate that a project has been split into two discrete phases – what is meant by "two clearly identifiable physical and financial phases"?	Phasing is a complex approach and should be avoided as much as possible by completing functional and in use elements in one period. It is up to the Member State to define phases for the operation which would be subject to phasing. In the case of MPs, phasing proposal has to be approved by the Commission; therefore the process includes MP modification or new MP application. The Commission is aware of possible difficulties linked to the phasing for some categories of projects. It is not possible to use only financial milestone (85% of costs, or 75% of construction or materials, etc.) for a definition of phase. A phase should be auditable with regard to its physical objects and allocated amounts. No specific guidelines or checklists for phasing are foreseen or suitable since relevant criteria for phasing are project-related (case-by-case assessment). A list of examples is nevertheless attached at the end of this document. If there is a need to phase non-MP, a beneficiary should contact the MA to agree on the specific provisions which would lead to the amendment of the original project decision, but the operation has to be completed in the 2014-2020 period. The physical and financial scope for each phase has to be defined and

Q	Topic	Reference to the Guidelines	Question	Answer
				included in the grant letter. The Member State is responsible for checking that all conditions listed in chapter 3.4 are met before it applies the phasing.
57	Phasing of non-MPs	3.4	In case of phasing of non-MPs over two programming periods, it is stated that “the second phase of the project is eligible under Structural Funds and/or CF under the 2014-2020 period” – how to proceed if such project cannot be financed within the scope of new OP 2014 – 2020? Would it be deemed as non-functioning project?	It is a basic condition of the phasing that the second phase of the project is eligible for financing from Structural Funds and/or the CF under the 2014-2020 period. If the second phase is not eligible, a project cannot be considered as phased over two programming periods. Then, it is a "non-functioning project" and the conditions fixed in section 3.5 of the CGL on non-functioning projects apply. In general, it should be noted that if the second phase of a phased project is not eligible or is not selected for co-financing under the 2014-2020 programme or is not completed for other reasons despite the fact that the phasing has been accepted, non-completion of the second phase may lead to a financial correction of the full amount allocated by the Union budget to the phased project (for both phases).
58	Phasing of non-MPs	3.4	In relation to non-MPs why is the threshold for phasing set at EUR 5 million and above? We appreciate the administrative burden and difficulties but could a lower threshold be accepted?	No. Phasing should be restricted to complex projects where financial volume is significant, therefore EUR 5 million threshold has been precisely proposed in order to avoid the experience of the programming period 2000-06, when a high number of projects had to remain under observation. In all other cases, MA should be able to complete operations in the given programming period.
59	Phasing of non-MPs	3.4	The ceiling of EUR 5 million is not supported by the regulation (no legal basis).	There exists in fact no legal base for phasing at all in the programming period 2007-13. A legal reference for phasing has, however, been established in Article 103 of the CPR for MPs in the programming period 2014-20, setting conditions for phasing MPs. Phasing is, accordingly, so far based on the agreement of the Commission as specified in the CGL, not to insist on the completion of projects within the programming period, which is to be considered the regular expectation following judgements of the Court of Justice on this issue.
60	Phasing of non-MPs	3.4	Does the amount of EUR 5 million referred to in paragraph 3.4 of the "European Commission Decision of 20.03.2013 - C(2013) 1573 final - refer to a single project? Or could it be regarded as referring to the entire operation referred to a Public Notice that triggers multiple projects?	As a general rule, the EUR 5 million threshold should always be assessed at the level of the project irrespective of the way this project is selected (public notice, call for proposals). In the case of a public notice covering many projects (which is understandable for administrative reasons and for a faster implementation), each project is implemented by a specific beneficiary who incurs its expenses within its own timeframe. Therefore, the phasing threshold of EUR 5 million should be assessed at the level of each project and not at the level of the entire operation.
61	Phasing of non-MPs	3.4	In the event that, for the ESF, the amount of EUR 5 million referred to in paragraph 3.4 is regarded as referring to the Public Notice and then to the total number of projects that originate from it, how should we deal with the change of co-financing rate between the two programming periods?	The threshold should be assessed at project level precisely to avoid this type of cumbersome situations.

Q	Topic	Reference to the Guidelines	Question	Answer
62	Phasing of non-MPs	3.4	In case of state aid, the ceiling of EUR 5 million would apply to the total amount of the aid scheme, to the amount available under the annual call alert or to a single operation or SME supported by the scheme?	The EUR 5 million threshold is defined in section 3.4 of the CGL with regard to the total cost of each project, not to the amount granted with regard to an aid scheme.
63	Phasing of non-MPs	3.4	Is it possible to consider eligible for phasing a group of interventions aiming at the same objective (complex integrated project).	Only if the group of activities/interventions are approved for and managed by the same beneficiary and that the indivisibility of the task can be demonstrated.
64	Phasing of non-MPs	3.4	The ERDF programme for Tuscani is supporting Integrated Urban Projects for Sustainable Development (Progetti integrati urbani di sviluppo sostenibile – PIUSS). The PIUSS is made of interventions aiming at achieving the global objective of sustainable socio-economic development through urban regeneration. At least 70% of the PIUSS interventions need to be completed in order to receive the public contribution. The MA asks confirmation that they can apply the phasing principle to the PIUSS.	Under the condition that PIUSS is implemented by one beneficiary and that it is to be considered as one operation (made of a number of interventions) with a unique general objective (indivisibility of the task can be demonstrated) and can be divided into two distinct phases it could in theory be phased. The MA must of course ensure that the total cost of the PIUSS is less than EUR 50 million. Otherwise it should have been declared as an MP. The MA must also ensure that the total cost of the PIUSS is above the threshold of EUR 5 million. It is reminded that each phase must be auditable.
65	Phasing and non-functioning projects: Calculation of "contribution from the Funds"	3.4 / 3.5	How to calculate the "contribution from de funds" or the "contribution from the Union"?	The contribution from the funds as mentioned under point 3.4 (last §) and under point 3.5 (second bullet point) is calculated by applying the co-financing rate of the priority to the public or total expenditure as mentioned in the programme without prejudice to provisions related to flexibility at closure. A new Annex VIII has been added to the CGL in order to provide an example of calculation.
66	Non-functioning projects	3.5	As regards the 10%, explain what is meant by "total allocation for the programme": is it the total public allocation (EU/State/Region) or only the EU contribution/allocation to the programme? In case of a joined ESF/ERDF OP, is it 10% of ESF and 10% of ERDF?	The 10% are to be calculated with regard to the funds contribution to the projects that are non-functioning at the end of the programming period. If the funds contribute more than 10% to non-functioning projects, the threshold will apply. There is no distinction to be made between ESF and ERDF. It is 10% of the funds contribution (ESF/ERDF/CF).
67	Non- functioning projects	3.5	How should we manage projects that have zero expenditure until now, but will have partial legal commitments and small expenditure until 31.12.2015, and will not be completed within the current programming period?	Projects should be financed in the next programming period as in both cases the justification for phasing or extension of the deadline for non-functioning projects cannot be provided.
68	Non-functioning	3.5	What are the EC´s requirements on the check of the	A non-functioning project is either 1) a project non-completed (even if partially in use) or 2) a

Q	Topic	Reference to the Guidelines	Question	Answer
	projects		functioning of the projects? Is it possible to prove the functioning of projects on the basis of the administrative check of projects (monitoring reports on sustainability, special report)? How will the EC assess the non-functioning projects? Which information will be required by the EC within the monitoring of non-functioning projects? Could you please elaborate on the definition of a non-functioning project? Are there any criteria set for the evaluation of such state of the project or it rests at the disposal of MS?	project completed and not in use. Article 88 Gen. Reg. sets out that "an operation shall be deemed completed where the activities under it have been actually carried out and for which all expenditure by the beneficiaries and the corresponding public contribution have been paid". In addition, the CGL under 3.2 (footnote 8) specify that "no further activity is required to complete the operation - works are completed and received in conformity with the requirements foreseen by the national legislation". The Member State should manage and monitor non-functioning projects in line with the conditions defined in the CGL (chapter 3.5) and the information required. Furthermore, it is the responsibility of the MA to check and declare that the operations which are included in the closure documents are completed and in use. The Member State should ensure that functions of the authorities are carried out according to Articles 60-62 Gen. Reg. It is up to MA to decide whether the administrative check would be sufficient.
69	Non-functioning projects	3.5	What requirements should be fulfilled to consider the project as non-functioning operation? What are the detailed criteria for notification of the non-functioning projects?	• It is for MS to decide if a project has good reasons to be considered as "non-functioning". There is no list of "good reasons" but they are typically problems beyond the beneficiary's control and sufficiently clear to give some assurance that they can be solved within a maximum of two years after closure. • The non-functioning project must have a total cost of at least EUR 5 million. • The Funds' contribution to all non-functioning projects within a programme cannot exceed 10% of the total allocation for this programme. • The MS must provide with the final report a list of such non-functioning projects. As functioning projects are defined as 1) completed and 2) in use, non-functioning project are those that do not fulfil one or both of these criteria.
70	Non-functioning projects	3.5	We would like to ask about the clarification of the non-functioning project definition. What should be understood by “completed and used”?	A project is completed when all activities foreseen have been actually carried out (no further activities are required to complete the operation). In case of works, this means that the works are completed and received in conformity with the requirements foreseen by the national legislation and/or in the grant agreement. The national rules on reception of works shall therefore be followed in order to assess the completion of projects. A project is in use when it is operated according to its purpose which is according to footnote 7 of the CGL without regard to the performance. As an example, it is not sufficient to have built a new railway line. It must be open to the public. The new railway may not attract sufficient passengers (be underperforming) but will still be considered as in use. Similarly, a museum is now open to the public but fails to attract sufficient visitors. It is nonetheless considered as completed and in use.
71	Non-functioning projects	3.5	According to the CGL: National authorities should ensure that by the date of submission of the closure documents the co-financed MP is completed, thus enabling it to achieve the goals of the priority or	Closure documents, including the final report, should all be submitted by 31 March 2017 at the latest as stipulated in Article 89(1) Gen. Reg. If by that date a MP is not completed and in use, the Member State may decide, exceptionally and providing an adequate justification exists, to include the expenditure paid in the final statement of expenditure (providing the

Q	Topic	Reference to the Guidelines	Question	Answer
			priorities to which it relates and to fulfil its purpose and function. The information submitted by the Member State in the final report should enable the Commission to reach the conclusions in this respect. Project completion date is set for 31 October 2015, however there is a real chance that the beneficiaries will apply for extension of this date by the end of 2015. Consequently, it may lead to delays in achieving the result indicators. In case of the result indicators for the project will not be achieved within the date of the final report submission, is it possible to apply a special procedure, for example: the complement of the final report in this area at the later time?	conditions as explained under section 3.5 are respected). By doing so, the Member State commits to complete the MP no later than two years after the submission of the closure documents. The Member State must provide with the final report a list of such non-functioning projects retained in the programme and must report to the Commission on a six-monthly basis on measures taken to complete them. Please note as well footnote 7 which specifies that the project must be in use without regard to performance, nevertheless, significant under-performance need to be highlighted and strategies should be developed to overcome them.
72	Non-functioning projects	3.5	How should Member States treat non-functioning projects of a total cost below EUR 5 million?	At the time of the submission of the closure documents, Member States have to ensure that all projects included in the programme closure are functioning, meaning completed (meeting the objectives of the granting decision) and in use, so considered as eligible. Non-completed projects below EUR 5 million cannot be included at closure and the Member State must withdraw previous expenditure declared for these projects. The Member State can nonetheless replace it by expenditure of a finalised operation if available (overcommitment).
73	Projects in use	3.5	Whether EC could clarify the definition of the "functioning and used project" in the context of network projects?	Nature of the "network projects" to be specified. If ITC network equipment, must be in use; if virtual network (sharing of experience, etc…) must prove that is indeed helping people building a network and sharing experience. Please note as well footnote 11 of the CGL which indicates that a project which fulfilled the requirements of Article 57(1) Gen. Reg. but is no longer functioning at the time of the closure of the programmes, shall not be considered as non-functioning project. This would apply for network projects that have provided in the agreement granting the aid that the network is to be maintained until a date prior to closure.
74	overbooking	3.5	Is “Overbooking” desired? (include more audited expenditure into the final payment claim, than the budget allows, in order to have some margin in case cuts are done)	Overbooking is an instrument that guarantees a better absorption of funds by eligible expenditures.
75		3.5	For the by the Commission very recommended overbooking, which ensures the absorption of the funds at the priority axis level at the end of the programming period, we kindly ask you to provide if possible practical guidance as to how this should be done. At this point in time we assume that more total expenditure would be declared in payment	The principle of overbooking doesn’t foresee that only projects above EUR 5 million or non-MPs eligible for phasing could be taken into account for overbookings. On the contrary, we should concentrate on projects completed and in use, since the phasing of projects over two programming periods is the exception rather than the general rule.

Q	Topic	Reference to the Guidelines	Question	Answer
			claims than the maximum financial support obtained by applying the co-financing rate (maximum programme volume/public contribution). Additional projects approved by the end of the programming period which could be included in the final statement of expenditure for overbooking purposes require, in accordance with the CGL, that these projects are completed on time and that they can be used at the latest by the time of the submission of the closure document. Would be exempted from this condition only projects with a total budget of more than EUR 5 million, where due to phasing only the proportion related to the programming period 2007-13 might be charged. For Länder which mostly support projects with 2-3 years of duration, which, moreover, are generally not exceeding the size threshold of EUR 5 million, the possibilities to use the overbooking would be significantly reduced. Apart from that, the financial risk that the Funds paid in advance by the Land would not be reimbursed, lies exclusively with the Land,	
76	Non-functioning projects	3.5	Could you please confirm that the deadline for completion of non-functioning projects from national funds is the 31.03.2019. What are the formal requirements for the six-monthly reporting on the completion of the projects concerned? Will there be a standard template for reporting?	31.03.2019, i.e. 2 years after the deadline for submission of the closure documents, represents only the time limit for the completion of the projects which fulfil the criteria of Section 3.5 of the guidelines, in particular which comply with the necessary threshold (EUR 5 million Total cost, 10 % total allocation). No standard template reporting is yet foreseen. Reports should provide information on the completion of milestones.
77	Non- functioning projects	3.5	According to point 3.5 of the Guidelines, the Member State should monitor the non-functioning projects and report to the Commission on a six-monthly basis on projects already completed, as well as on the measures taken including milestones in order to complete the remaining projects, for two years. In our interpretation, these reports should contain development, execution of measures and milestones since the previous report. In case if execution of measures delay, and milestones stated for the next six months are not achieved, has the Member State an opportunity to set up new milestones, measures and deadlines within the two	The Member States have to provide, with the final report, a list of such non-functioning projects retained in the programme (see Annex V – Summary table of non-functioning projects). In addition, the Member States should closely monitor these non-functioning projects and report to the Commission on a six-monthly basis on projects already completed, as well as on the measures taken, including milestones, in order to complete the remaining projects. There is no standard template for reporting of non-functioning projects, but there are essential elements to be included in the reports which will allow assessing the progress every six months. The report should provide information on projects already completed and on the measures (and milestones) taken to achieve projects completion. It is recommended that it includes an extended table (Annex V) where additional columns are provided to report on the progress for each of the six month periods. Where relevant, a brief description of the projects

Q	Topic	Reference to the Guidelines	Question	Answer
			years period?	and their progress to the completion could be added. If necessary, the Member State could adapt the milestones within the two-year period.
78	Non- functioning projects	3.5	It is also defined that each facility must be concluded and used; if this is not the case, corrections in the amount of the overall project value are foreseen (issues regarding monitoring two years after the closure)?	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. In case a project is still non-functioning by 31 March 2019, the Commission will proceed with the recovery of the funds allocated to the whole project. If the Member State does not agree with the recovery, the Commission will proceed with a financial correction according to Article 99 Gen. Reg..
79	Non- functioning projects	3.5	What is the recommended procedure for checking of the project's functioning prior to submitting of the closure documents?	CAs must receive assurance from the MAs that all declared expenditure are eligible and relating to completed and in use projects.
80	Non-functioning projects	3.5	What are the recommendations for preparing a list of the unclosed projects related to the closure of the operational programs, including: a) impact of the adversarial procedure, b) monitoring of the unclosed projects after the closure of operational programs, c) documentation for the unclosed projects.	Anticipation is key in order to avoid last minute surprises. As both CA and AA need time to put the final payment application together (CA) and to work on the closure declaration (AA), a date somewhere in the second half of 2016 appears still realistic to be set between the authorities involved as a cut-off date for the MA to provide the list of the unclosed projects for which the national authorities will ask for an extension of the completion deadline according to 3.5 of the CGL. Declared "non-functioning" projects should be followed and monitored after closure in order to avoid the need to reimburse the Commission.
81	Non-functioning projects	3.5	Point 3.5 of the CGL: The Member State may decide, exceptionally and on a case-by-case basis, provided that adequate justification exists, to include expenditure paid for non-functioning projects in the final statement of expenditure. In doing so it should take into account the reasons why a project is non-functioning and it should verify that the financial impact of the project justifies this special treatment (…). We would like to ask about the clarification of the statement: "the financial impact of the project". What elements should include the analysis referred to in above mentioned point of the CGL?	The financial impact of the project justifies a special treatment if: • the total cost of the project amounts to at least EUR 5 million and • the Funds' contribution to all non-functioning projects is not more than 10% of the total allocation for the programme. By including the expenditure paid for non-functioning projects in a final statement, a Member State commits to complete all such non-functioning projects not later than two years after the deadline for submission of the closure documents and to reimburse the Union co-financing allocated in case of non-completion of such projects by the two year deadline. The Member State should provide the necessary information on the completion and operational aspect of these projects retained in the programme on a six-monthly basis.
82	Non-functioning projects	3.5	Point 3.5 of the CGL: By including the expenditure paid for non-functioning projects in a final statement, a Member State commits to complete all such non-functioning projects not later than two years after the deadline for submission of the closure documents and to reimburse the Union co-financing allocated in case of non-completion of such projects	Yes

Q	Topic	Reference to the Guidelines	Question	Answer
			by the two year deadline. Does that mean that 31 March 2019 is the deadline for the completion of all non-functioning projects included in the final statement of expenditure?	
83	Non-functioning projects	3.5	Does this mean that if the project is used but is not used in accordance with the purpose of the public call for proposals or is not entirely used in accordance with the purpose of the public call for proposals that the correction in the amount of the overall project value is used?	The project has to meet the objectives of the granting decision in the sense that it is completed and physical facilities are used at closure (it is not enough that a motorway or an incinerator is constructed, it needs to serve the user addressed in the granting decision). If not a financial correction is applied to the project.
84	Non- functioning projects	3.5	Who signs the correction in such cases (MA?)?	The Member State carries out financial corrections in the first place according to Article 98 Gen. Reg.: "the Member State shall make the financial corrections required in connection with the individual or systemic irregularities detected in operations or OPs". The Commission may also make financial corrections in accordance with the provisions of Articles 99-102, namely in the situations where the Member State has not complied with its obligations under Article 98 Gen. Reg. prior to the opening of the correction by the Commission.
85	Non-functioning projects	3.5	How to handle operations the objectives of which are achieved 2 years after the closure: do we wait with closure or do we re-activate the operation?	Where not all elements of an operation are completed according to the grant agreement, it should not be considered as completed. At the time of the submission of the closure documents, Member States have to ensure that all projects included in the programme closure are functioning, meaning completed (meeting the objectives of the granting decision) and in use, so considered as eligible. The Member State should not report a project as finalised earlier than its completion. If the project is not completed at the end of the programming period the Member State has until March 2017 to complete the project with national resources. At that stage the MS has the possibility to both withdraw expenditure declared and replace it by expenditure of a finalised operation or to keep it in the final statement of expenditure and commit itself to the completion of the project within 2 years if the conditions under 3.5 of the CGL are met. If after these two additional years the operation remains uncompleted, the Commission will apply a financial correction, the amount of which will depend on the remaining overbooking under the respective priority axis.
86	Non-functioning projects	3.5	Can bridged projects (over programming period 2000-06 and programming period 2007-13) be included as non-functioning projects and be completed by 31.03.2019 provided they meet the requirements under section 3.5 of the CGL?	Provisions in relation to non-functioning projects may apply to the second phase of bridged projects over 2000-06 and 2007-13. But it is noteworthy that the entire 2007-13 allocation to the project would be recovered should it not be completed by 31 March 2019. For 2000-2006 the respective rules for that programming period will be applied (see section 6 of CGL C(2006)3424 dated of 1/08/2006).
87	Non-functioning projects	3.5	If a project is not completed by the closure deadline, can neither be declared as non-functioning nor be phased, but if part of that project has been	The scope of a project can be reduced. However, procurement rules and rules in relation to the agreement providing the support from the funds need to be respected. This means that, where the contract was awarded in compliance with the Directives, but was followed by a

Q	Topic	Reference to the Guidelines	Question	Answer
			completed and is in use before 31.03.2017, can the expenditure relating to that part of the project be eligible?	reduction in the scope of the contract, the expenditure concerned is subject to a financial correction, as foreseen in the Commission Decision of 19.12.2013 on the setting out and approval of the guidelines for determining financial corrections to be made to expenditure financed by the Union under shared management, for non-compliance with the rules on public procurement. The reduced project needs to be completed and in use by 31.03.2017, all expenditure incurred and paid for that project by 31.12.2015 can be considered eligible.
88	FEIs	3.6	What is the cut-off date for the FEI to invest in final recipients?	The eligibility of expenditure paid in establishing or contributing to a FEI and subsequent disbursements by the FEI is to be verified also at closure and is subject to the assurance given in the closure declaration by the AA in line with Article 62(1)(e) Gen. Reg. It is therefore crucial for Funds' managers to receive clear guidance from the MAs on what the certifying and audit work entails including in terms of cut-off date for the disbursement of loans/guarantees to final recipients. Although this cut-off date could vary from one Member State to the other, depending on their specific circumstances, it is recommended that it should not be later than 31 December 2016.
89	FEIs: Guarantees	3.6.1	Taking notice of Article 78(6) Gen. Reg., it should be clarified what is eligible guarantee in case of transactions.	As provided in paragraph 4.1.4 of COCOF guidance note, when deciding to provide contribution from the OP to guarantee funds, MA should determine the target range of values for the expected ratio between amounts contributed from the OP to guarantee fund and the respective amounts of new loans which will be covered by such guarantees (multiplier ratio calculated on a MA assessment ex-ante). Once the loans covered by the guarantee financed from OP (and calculated ex-ante, based on multiplier ratio) are effectively disbursed to final recipients, the amount of such a committed guarantee becomes eligible. This is irrespective whether, in the end, the guarantee will be called in or not. When, for the committed guarantee, the underlying loans come to their maturity period the guarantee becomes "provided". The guarantee provided may mean guarantee called in and honoured (loans are in defaults as determined in risk assessment) or guarantee freed (no defaults, or lower defaults than determined in risk assessment). If, in case of defaults, the losses exceed the amount of guarantee committed from OP (the defaults predetermined in risk assessment were too low), then the residual losses have to be covered by co-investing body which shares the risks with MA (e.g. bank). It is not possible that OP resources are called in to cover losses in excess of the amount of the guarantee committed as this would imply a contingent liability to the OP over and above the OP resources committed to the operation (same as for any other operation, the amount of the grant is predefined, it is not contingent on the final cost of the underlying project). MA can at any moment revise Funding Agreement to include more realistic risk assessment in order to better align multiplier ratio to the market conditions. Such amendment would allow MA either to commit more resources from OP for the same amount of loans or would allow issuing lower amount of loans while maintaining the initial amount of OP contribution for

Q	Topic	Reference to the Guidelines	Question	Answer
				guarantees. Such a change and modification of conditions cannot be done for guarantees already provided.
90	FEIs	3.6.1	In case of guarantees, is it necessary to demonstrate the multiplier effect foreseen in the investment fund's plan provided the funds have been invested once?	The application of an adequate multiplier for guarantees is to be demonstrated for all expenditures declared. According to section 3.6.1 of the CGL, the target range of values for multipliers depends on the specific market conditions when market type products are concerned, and /or the characteristics of the guaranteed operations, or of the new underlying loans or loan portfolios and the inherent targeted investments.
91	FEIs	3.6.1	At closure what should be taken into account: the total amount of the guarantees or the amount of the guarantees that have been called in?	Once the loans covered by the guarantee financed from OP (and calculated ex-ante, based on multiplier ratio) are effectively disbursed to final recipients, the amount of such a committed guarantee becomes eligible. This is irrespective whether, in the end, the guarantee will be called in or not.
92	FEIs	3.6.1	For the purpose of the final statement of expenditure, is it necessary that the enterprise has already paid back the loan?	In case of guarantee funds, as stated in the previous answer, the amount of a guarantee becomes eligible once the loans covered by the guarantee are effectively disbursed to the final recipients irrespective of the reimbursement of that given loan which may in many cases exceed the time scope of the programming period.
93	FEIs	3.6	To this end, we would like to get confirmation, as shown by the existing regulations, that the first-level checks, as regards the repayable investments, should not lead to verifying all individual expenses incurred by the final recipient with the guaranteed loan, since such expenses may not necessarily be incurred at closure or be incurred only partially, without this preventing to consider them eligible (it should be recalled that the “value of guarantees provided including amounts committed as guarantees” are eligible at closure). Such methodology of control would differ, of course, from the one inherent to management costs, which follows the ordinary methods of reporting.	In line with Articles 44 and 78(6) Gen. Reg., eligible expenditure at closure for FEI are the investments made from OP contribution to the final recipients (including resources committed for guarantees) and the eligible management costs and fees. That means that OP contributions to the FEI before 31.12.2015 may be justified by disbursements to final recipients as eligible until 31.03.2017; however they have to be covered by the closure declaration (as all eligible expenditure). In order for the AA to have sufficient time to carry out its work for the closure declaration the application for payment of the final balance and the final statement of expenditure should be submitted to the AA well in advance (it is recommended that these documents are provided to the AA at least three months before the deadline of 31 March 2017) see Annex VI of the CGL. As both CA and AA need time to draft the final payment application (CA) and to work on the closure declaration (AA),a date in the second half of 2016 appears realistic to be set between the authorities involved as a cut-off date for the MA to provide FEI eligibility evidence (which can invest into new SME or in SMEs that have been already subject to an investment provided that Sate aid rules and limits are complied with). As outlined in the last paragraph of section 3.6 of the CGL, resources returned from investments in final recipient should be considered as legacy and should not be declared in case of further loan disbursements to SME as eligible expenditure in the programming period 2007-13. Programme resources paid to the final recipient or committed in a guarantee contract for loans disbursed to the final recipient must be spent for the intended purpose in order to contribute to the achievement of the objectives of the relevant programme. Expenditure for which the national authorities do not have assurance that the contribution

Q	Topic	Reference to the Guidelines	Question	Answer
				paid to the final recipient has been used for its intended purpose cannot be declared at closure. Management verifications should be carried out by the MA at the level of the beneficiary (FEI or the holding fund). In this respect the MA may carry out on-the-spot verifications at the level of final recipients when documents required for those verifications are not available at the level of the holding fund/financial intermediaries and this documentation is needed to provide reliable evidence of the reality and eligibility of the investment.
94	FEIs	3.6	Implications of loss of FEI funds in case of a bankruptcy of a bank – would these funds be considered ineligible? How should such bankruptcies effect the entire situation? Would the "lost contribution" really be ineligible despite the fact that FEI is implemented and the goals (e.g. as provided in the funding agreement and (or) in the investment strategy) are reached fully with lower resources?	According to Article 78(1) Gen. Reg., all statements of expenditure shall include the total amount of eligible expenditure paid by beneficiaries in implementing the operations. By way of derogation, Article 78(6) allows to declare all expenditure paid in establishing or contributing to funds or Holding funds managing FEI as defined in Article 44 Gen. Reg. However, at closure according to Article 78 (6) only the amount paid out by the FEI for concrete investments in final recipients (e.g. SMEs, urban development projects, energy efficiency and use of renewable energy in buildings) or the amount of guarantees provided including the amounts committed as guarantees (corresponding to underlying loans issued and disbursed) can be declared as eligible expenditure. Also, management costs or fees are eligible expenditure within the limits set out in the legislation (Article 43(4) Imp. Reg.). Following the above, eligible expenditure at closure would only be expenditure paid for investments in final recipients irrespective of the bankruptcy occurred. In case detailed facts are presented or more specific questions are asked the reply may be further elaborated.
95	FEIs	3.6	In accordance with Article 78(6) Gen. Reg. at partial or final closure eligible expenditure FEIs shall be payments for investments in enterprises. Would it be possible, if needed, to declare as eligible expenditure the investments which have been financed in accordance with rules applicable to Structural Funds but from the resources returned by SMEs to financial intermediary (and not to HF)? Therefore these investments can be considered as over-committed and subsequently invested as eligible expenditure.	No, it is not possible. The eligible expenditure concerns investments in final recipient with resources from OP which were effectively used during the first cycle of investments. The resources returned are not considered OP resources any longer and their reinvestment cannot therefore be declared as eligible expenditure.
96	FEIs	3.6	Questions on the thresholds for management costs and fees, established as a percentage of the capital contributed from the OP: Is the percentage calculated only on the amount from the programme allocated to the fund? Ref Cocof 10-0014-04 (2.6.6): what does "on a yearly average" means?	The limits on management costs and fees are calculated in relation to the programme contribution (ERDF/ESF and national co-financing) paid into the FEI. Any other resources contributed to the FEI do not constitute the basis for calculation of eligible management costs and fees. "On a yearly average" means that for individual years the thresholds may go down or up under the condition that for the entire period the sum of the annual thresholds is not exceeded.

Q	Topic	Reference to the Guidelines	Question	Answer
			The maximum ceiling defined in the article 43(4) Gen. Reg. should be considered as an allocation for all the years of the programming period or should be considered as related to each year of the programming period? In case the maximum ceiling is an allocation for all the years of the programming period which is the allocation criteria for the management costs between the years of the programming period ? Should this allocation be based on the level of usage of the resources? Ref Cocof 10-0014-04 (2.6.12): On which basis (benchmarks?) do we evaluate the performance that is to be linked to the remuneration of the fund managers? Ref Cocof 10-0014-04 (2.6.13): What is meant under this point? That we should not pay the remuneration to the fund manager if some companies fail to reimburse the loan?	The calculation of annual threshold is done 'pro rata temporis' taking into account the moment OP contribution is paid into the fund. The ceiling defined in Article 43(4) is always applied to the contribution from a programme into the fund. E.g. if OP contribution to the loan fund of EUR 10 million was made on 1.01.2010 and the fund is operating until 31.12.2015. Then, the eligible management costs/fees cannot exceed for the entire period EUR 1,8 million (6 years multiplied by 3% of 10 million). If the amount of OP contribution was changing over time (additional OP contribution were made or withdrawal took place) then, the annual calculation of the threshold has to take this into account in accordance with the 'pro rata temporis' principle. MA should have agreed with the fund manager remuneration which is performance oriented. The performance benchmarks may relate to the financial absorption (e.g. amount of loans disbursed to final recipients), to resources paid back (i.e. the amount of capital and returns paid back from investments in final recipients) and contribution of investments to the achievement of strategic objectives of OP. The performance based criteria mentioned in paragraphs 2.6.12 and 2.6.13 of COCOF note can be applied in the calculation of management costs/fees to be paid by MA to the fund manager only if this was laid down in the funding agreement signed between the MA and the fund manager. If these performance criteria are not reflected in the funding agreement, there might not be any legal basis for the MA to reduce management costs and fees.
97	FEIs	3.6	About the management costs of the FEIs, in particular for guarantee funds, can you confirm that the management costs incurred for an "in house" IB (within the Region administration), may not exceed on a yearly average (and for the duration of the intervention), the value of 2% of contribution to the Guarantee Fund of the OP, in accordance with Article 43(4)(a) Gen. Reg.)?.	If under "in house IB" it is meant an FEI established within national financial institution ("national champion"), which does not have a status of "IB" under the meaning of Article 2(6) Gen. Reg., then the management costs and fees are eligible within the limits of Article 43(4) of that Regulation (e.g. 2% on yearly average of the capital contributed to guarantee funds). If an "in house IB" acts as "IB" under the meaning of Article 2(6) Gen. Reg. and at the same time is selected as an FEI then, the management cost and fees of such FEI can be considered eligible within the limits of Article 43(4) under the following conditions: 1. Such established FEI should comply with the provision of Article 43(2) Imp. Reg., i.e. should be legal entity governed by agreements between the co-financing partners and shareholders or be a separate block of finance within financial institution. 2. Since the IB would be also a beneficiary for FEI operation, adequate separation of functions in accordance with Article 58(b) Gen. Reg. should be ensured. 3. There should be no overlap between the management costs/fees eligible under FEI operation and similar type of expenditure at the level of IB paid from TA under Article 46 Gen. Reg.
98	FEIs	3.6	In the case of FEIs, is it correct to consider eligible expense the amounts lent to companies (final recipients) at the end of the eligibility period, although these companies may not have the projects implemented in full and therefore not	Disbursement (investments) from FEI to final recipients can in theory happen until 31 March 2017. These must nonetheless be included in the final declaration that must be certified and audited and be submitted to the Commission before the closure deadline of 31 March 2017. There is therefore a time lag to be factored in by the management authority and the FEI in order to allow the CA and AA to complete their work on time. As both CA and AA need time

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			having satisfied all expenses? Note that the disbursement by the Financial Instrument manager will be before 31.12.2015, but the invoices that the enterprises will submit as documentary evidence of the expenditure may be dated later (and before the date of the final statement).	to draft the final payment application (CA) and to work on the closure declaration (AA), a date in the second half of 2016 appears realistic to be set between the authorities involved as a cut-off date for the MA to provide FI eligibility evidence (which can invest into new SME or SMEs already invested provided that State aid rules and limits are complied with). MAs must have assurance that the contribution paid to the final recipients are used for their intended purpose (base on e.g. business plan confirming the purpose of a loan or a guarantee, feasibility study, first stages of implementation, implementation reports, etc...) . However it is not necessary for the final recipients to have completed the implementation of an investment activity supported by the FEI by the submission of the closure documents.
99	FEIs	3.6	The eligibility period for FEIs ends on 31.03.2017, which coincides with the deadline for submission of the closure documentation. We understand that, in this case, the eligibility of expenditure would be identical to the one considered in the previous paragraph. Since the documents supporting the investment by the recipients must necessarily have a date that must be later than the one of the transfer of loans and ensure that the contribution paid to the beneficiary has been used for its intended purpose. In addition to checks by the Financial Instrument manager and the MA, it is required that the AA provides its assurance in the closure documentation and the final declaration, which requires additional time. Is this flexibility foreseen by the Commission? How can both objectives be safeguarded: extending the eligibility date for FEIs and making sure that funding from the FEIs are properly used?	There is no extension of the eligibility date: the expenditure paid in establishing or contributing to the FEI must be paid at the latest on 31.12.2015. On top of this, as specified in Art 78 (6) Gen. Reg., eligible expenditure shall be the total of any payments for investment or any guarantees provided at partial or final closure. This is without prejudice to the other rules concerning the need to certify and audit declared expenditure. The latest modification of the CGL added the following paragraph under Section 3.6: 'Since the final application for payment must be submitted by 31 March 2017, and no additional expenditure can be declared after 31 March 2017, closure for the purpose of Article 78 (6) is to be understood as the final date for submission of payment applications. In order for the AA to have sufficient time to carry out its work for the closure declaration the application for payment of the final balance and the final statement of expenditure should be submitted to the AA well in advance (it is recommended that these documents are provided to the AA at least three months before the deadline of 31 March 2017)'. In addition to the MA primary responsibility on the use of the Funds, attention is drawn to the fact that the AA must be enabled to fulfil its responsibilities under Article 62(1)(e) Gen. Reg. (i.e. "assessing the validity of the application for payment of the final balance and the legality and regularity of the underlying transactions covered by the final statement of expenditure"). This means that the AA needs to be able to seek reasonable assurance that not only the public contribution was paid to the FEI before the end date of eligibility, but also that the expenditure declared at closure is indeed eligible under Article 78(6) of the said Regulation and complies with all the Union and national applicable law including the rules set out in the relevant funding agreement. This assurance would be obtained through a sample of operations audited in a nine month period before closure (including contradictory procedure with the auditees), which is considered the minimum time to perform sufficient audit work in this regard. If the final statement of expenditure is only submitted to the AA early 2017, it would be impossible in practice for AAs to make sufficient checks on that statement of expenditure since all closure documents (including the AA closure declaration) have to be sent to the Commission at the latest by the 31.03.2017. Hence, it is recommended that the CA sends the

Q	Topic	Reference to the Guidelines	Question	Answer
				last interim payment claim (including the expenditure that will be certified at closure) to the AA by 30.06.2016, to allow this body to perform the necessary audit work. This will reduce the need for reservations in the closure declaration due to scope limitations if the AA is unable to perform the audit work in time before 31.03.2017.
100	FEIs	3.6	We would like to know if the amount that can be considered eligible by the Financial Instrument manager is the amount paid to the companies or the amount outstanding at the time of the loan. There are agencies that pay an advance which can be 25%, 50% or 75% depending on the guarantees provided by the companies, and the rest is paid once the project has been completed and has been justified and certified.	Only the payments made by the Fund to a company can be declared as eligible expenditure.
101	FEIs	3.6	Specific eligibility rules applicable to FEIs under Article 44 Gen. Reg. (Point 3.6 of the CGL) – could you explain and precise the rules of eligibility in the scope of FEI, including interest generated by payments from the programme and attributable to the Structural Funds, information on legacy, closure of FEI.	Interests generated are resources that have to be invested for FEI. Interests generated on amounts kept in Holding Funds before investing in final recipients are to be used for eligible expenditure. The Gen. Reg. includes dedicated provisions on the resources returned to the FEI, which are separate from the provisions on eligibility and are placed in a separate paragraph. The second subparagraph of Article 78(7) stipulates that resources returned to the operation from investments undertaken by the funds referred to in Article 44, shall be reused by the competent authority for the benefit of the same type of actions. This paragraph neither names these resources as programme resources, nor refers to their eligibility. In conclusion, according to the provisions in Articles 44 and 78(6), at closure, only investments in final recipients made from programme contributions to the FEIs can be considered as eligible expenditure. Any resources returned from investment in enterprises to the FEIs should be treated in accordance with Article 78(7) and cannot be declared as eligible expenditure at closure. Resources returned to the operation from investments undertaken by FEIs are the capital repayments by the enterprises to the FEI and the gains (e.g. interest, guarantee fees) paid to the FEI, which are attributable to the Structural Fund contribution to this FEI. They have to be used in accordance with the second subparagraph of Article 78(7). This subparagraph defines the purpose of their use, but it does not define any time limits for this. This implies that the reuse in line with Article 78(7) does not need to take place before the end of the eligibility period.
102	FEIs	3.6	Recent position of the Commission suggests that the statement of expenditure, submitted at the closure of the OP, according to Article 78(6) second subparagraph Gen. Reg., should include only the	The question of eligibility in FEIs is addressed in Article 78(6) Gen. Reg. The first subparagraph of Article 78(6) sets out what is eligible expenditure for the purpose of the statement of expenditure. It refers to Article 44 and clarifies that, for FEIs, programme expenditure paid in establishing or contributing to these funds (i.e. FEIs) or a holding fund

Q	Topic	Reference to the Guidelines	Question	Answer
			eligible expenditure, which was covered by the initial programme contribution to FEI, excluding the expenditure which was covered by the resources returned from the investments made by FEI (in another round of investments using the same programme resources). Such interpretation does not directly result from the rules of the Gen. Reg. Furthermore, FEIs are revolving instruments so it is common that the reinvestment of the programme resources was often made within the same FEI as long as there was a need for such financing from the final recipients (market conformed need), so in many cases it might be not possible to decide if the expenditure such as a loan or guarantee was covered only by the initial programme contribution or by the resources returned and reinvested. It should be stressed that the EU regulations for 2007-13 did not impose on FEI the obligation to establish separate accounts for the initial contribution from the OP and separate accounts for other cycles of the reinvestments of the resources returned. Therefore, is it permissible in the Commission option to include in the statement of the expenditure submitted according to Article. 78(6) second subparagraph Gen. Reg. the total value of the investments made for the benefit of the final recipients (loans or guarantees) and to cover the managements costs and fees, within the limits set in Article 44 Gen. Reg. or at least the expenditure which equals the programme contribution to FEI, without deciding whether it was covered by the resources from the initial programme contribution or the resources reinvested within another cycle of the investments from the programme resources made by FEI? Such solutions are supported by simple pragmatism and do not breach the Gen. Reg., especially Articles 78(6) and 56 (eligibility of the expenditure) thereof.	can be presented in the statement of expenditure. However, the same paragraph specifies in its second subparagraph that, at closure, the eligible expenditure is the payment from the above mentioned funds (i.e. FEIs to which a contribution from the programme was made), for investment in enterprises. Accordingly, the eligible expenditure at closure is the payment to the enterprises from the programme contribution. The Gen. Reg. includes dedicated provisions on the resources returned to the FEI, which are separate from the provisions on eligibility and are placed in a separate paragraph. The second subparagraph of Article 78(7) stipulates that resources returned to the operation from investments undertaken by the funds referred to in Article 44, shall be reused by the competent authority for the benefit of the same type of actions. This paragraph neither names these resources as programme resources, nor refers to their eligibility. In conclusion, according to the provisions in Articles 44 and 78(6), at closure, only investments in final recipients made from programme contributions to the FEIs can be considered as eligible expenditure. Any resources returned from investment in enterprises to the FEIs should be treated in accordance with Article 78(7) and cannot be declared as eligible expenditure at closure. Resources returned to the operation from investments undertaken by FEIs are the capital repayments by the enterprises to the FEI and the gains (e.g. interest, guarantee fees) paid to the FEI, which are attributable to the Structural Fund contribution to this FEI. They have to be used in accordance with the second subparagraph of Article 78(7). This subparagraph defines the purpose of their use, but it does not define any time limits for this. This implies that the reuse in line with Article 78(7) does not need to take place before the end of the eligibility period.
103	FEIs	3.6	Concerning the audit and control of FEI, the supporting documents should include evidence that the objectives for which the repayable investments	The type of documents may vary between different FEIs and will depend on the type of investments made by final recipients. FEIs are delivery mode of programme support to final recipients. The purpose of FEI in

Q	Topic	Reference to the Guidelines	Question	Answer
			were used have been achieved according to the intended purpose (e.g. documents provided by final recipients as appropriate, reports, on the spot verifications by fund managers, visits and board meetings, annual accounts, and reports by the loan intermediary to the guarantee fund supporting claims). What type of documents should the MA request from the final beneficiaries to evidence the fact that the investment was used for the intended purpose? In case of state aid used to promote investment in risk capital for SMEs (Articles 27 and 28 of Reg 800/08) or in case of de minimis (Reg. 1998/06), where there are no specific eligible expenditure mentioned and where the specific objectives are the development of the risk or venture capital market, or the development of access to credit, it should not be necessary to check the expenses done by the final recipients? In Article 45 of Reg. 828/08 (modified by Reg. (UE) 832/10) it is necessary to clarify the word "activities" in the sentence "FEI for enterprises… invest only in activities which the managers of the FEIs judge potentially economically viable". According to us the word "activities" is to be understood in the technical accounting sense of the word meaning the active components of the balance sheet of the Fund, hence (i) shares in the case of equity funds that invest in venture capital for SMEs, (i) loans in the case of Funds granting loans to SMEs, or (iii) guarantees (or counter guarantees) in the case of funds that provide guarantees to those providing loans to SMEs (or counter guarantees to those providing guarantees to those providing loans to SMEs). The other interpretation of the word "activities" is the underlying assets of the company (investment, etc.). This interpretation is not sustainable and is not aligned with the aim of involving private capital, financial intermediaries and the characteristics of	cohesion policy is not the development of risk/venture capital market but support to final recipient in line with programme objectives. The application of risk capital aid or de minimis aid cannot waive the requirement to use the OP support for intended purpose. "Activities" in Article 45 of Reg. 828/08 mean investments made by the final recipients. This means that the investment (project) presented in the business plan when applying for support (e.g. loan) has to be financially viable.

Q	Topic	Reference to the Guidelines	Question	Answer
			their operations.	
104	FEIs	3.6	What is the administrative act recognised as valid/requested in order to certify expenditure in the case of FEIs? Can the final investors' expenditure intervene after the deadline for the admissibility of expenditure?	The final investor (understood as final recipient) can spend resources invested by FEI after the eligibility deadline. The CA will certify the OP contribution paid in the FEI and justify its eligibility in the closure documents in line with Article 78 (6) Gen. Reg. The disbursement to final recipients (in the form a loan or guarantee) can take place after the 31.12.2015 but before the submission of the closure documents. The programme resources paid to the final recipient or committed in a guarantee contract for loans disbursed to the final recipient must be spent for the intended purpose in order to contribute to the achievement of the objectives of the relevant programme. Expenditure for which the national authorities do not have assurance that the contribution paid to the final recipient has been used for its intended purpose cannot be declared at closure.
105	FEIs	3.6	What is the final date for the completion of operations financed through FEIs? Should such operations be completed by 31.03.2017 or 31.03.2019 (as for non-functioning projects financed through grants)? Is it possible to include in the list of non-functioning projects, those non-functioning projects financed by FEI?	The operations that are implemented by the final recipients with the support from FEI are not bound to the functionality requirements. As long as the OP contribution is paid into an eligible FEI and is justified by disbursements referred to in Article 78(6) Gen. Reg., these payments are eligible. The operation that is financed by a loan or a guarantee of the FEI can be completed later. However the operation to which the FEI contributes must comply with the respective programme requirements.
106	FEIs	3.6	The "centro per le Biotecnologie e la Ricerca Biomedica di Carini" is a project of EUR 220 million that requested a loan of EUR 40 million (Jessica initiative). Should this be considered as a MP? Same question but relating to projects financed through an urban development fund.	According to Article 44(a) Gen. Reg., Article 39 does not apply for FEIs ruled in Article 44. Therefore, such a project is not to undergo the MP process assuming that this is the only contribution from the programme.
107	FEIs	3.6.	Article 78(7) Gen. Reg. - resources returned to the operation from investments undertaken by funds as defined in Article 44 or left over after all guarantees have been honoured shall be reused by the competent authorities of the Member States concerned for the benefit of urban development projects or of small and medium-sized enterprises." Would it be possible to have a definition of what constitutes an **'Urban Development Project'** for such legacy investments? And should the ERDF eligibility rules still apply to such legacy returns (legacy funds)?	In the framework of Structural Funds, these are projects supported by urban development funds and complying with the prescriptions of Article 44 Gen. Reg. and Article 46 Imp. Reg. ERDF eligibility rules apply only to OP resources. The resources returned to the operation are not considered anymore OP resources, so ERDF eligibility rules do not have to apply. Please note that Article 78(7) second paragraph Gen. Reg. refers only to the resources which are attributable to the ERDF contribution. In this context, as indicated in the CGL Section 5.2.5, the MA should ensure that any resources returned to the FEI which are attributable to the Structural Funds contribution are either re-used by the instrument for further investments or are used to cover management costs and fees of the FEI or must be allocated to the competent authorities for further utilization to the benefit of the same type of actions. The re-use of the resources returned can take place until and beyond the end of the eligibility period (31.12.2015).

Q	Topic	Reference to the Guidelines	Question	Answer
			If so, for how long (how many cycles of re-investment are considered appropriate)?	It should also be noted that the Commission considers as good practice that resources returned from investments attributable to the Structural Funds contribution to FEIs are re-used in the region(s) covered by the OP and that re-use is done through FEIs, with a view to ensuring further multiplier and recycling of public money.
108	FEIs	3.6	Will there be any verifications (controls) related to reutilisation of resources returned? What kind of controls would it be? What would be (legal) background for such verifications? Re-use of FEI funds for the same purpose – how it should be verified and on what basis?	According to Article 43(3) Imp. Reg., the funding agreement signed between an MA or the holding fund and the FEI should include provisions on the inclusion of an exit policy and winding-up provisions on the reutilisation of resources returned to the FEI from investments or left over after all guarantees have been honoured that are attributable to the contribution from the OP. At closure the MA should provide information on the re-use of legacy resources attributable to the Structural Funds specifying the competent authority which is responsible for managing legacy resources, the form of re-use, the purpose, the geographic area concerned and the envisaged duration. Audits would cover the verification of the respect of the provisions of the General Regulations, the Implementing Regulation and the funding agreement.
109	FEIs	3.6.	What additional information is required for FEIs over and above that already required in the AIRs?	Information requested in annual reporting (SFC module) and the elements mentioned in section 5.2.5 of the CGL.
110	FEIs	3.6.	Does the Commission state requirements in case of JEREMIE, how the Member State should certify the regular payment of sources?	The underlying provisions set out under section 3.6 apply to all FEI operations including JEREMIE. The member state can certify each regular payment made into a JEREMIE fund but has to evidence its eligibility at closure by items enumerated under Article 78(6) Gen. Reg.
111	FEIs	3.6.	Is it possible after closure of the 2007-13 OP to fund further investments under an existing fund from the 2014-2020 Programme? We are referring specifically to a scenario where there is no holding fund structure and ERDF is invested pari-passu on a deal by deal basis. The set-up of the fund (including procurement of the Fund Manager) envisaged a 7 year investment period which only commenced in 2012?	The Fund could continue provided that procurement rules are respected as the fresh programme money is brought to the Fund. It should be reminded that a financial engineering project cannot be phased.
112	FEIs	3.6	What kind of procedure (specifically) for reporting on implementation of FEIs will (should) take place at the closure of OPs (what kind of reports/payment claims will be provided by the Member State; maybe only the withdrawals will be declared (resulting from the difference between the total expenditure paid in establishing or contributed to FEIs and the eligible	Article 67(2)(j) Gen. Reg. specifies the information that has to be provided in the final report. The OP contribution made to the Fund is considered as an advance from a Commission accountancy point of view even if it is considered, at the same time, as eligible expenditure from the perspective of the OP's financial management. In the closure documents the MA has to justify the declared eligible expenditures in line with Article 78(6) Gen. Reg. As foreseen in Article 78(1) Gen. Reg., expenditure paid by beneficiaries shall be supported

Q	Topic	Reference to the Guidelines	Question	Answer
			expenditure as defined in Article 78(6) Gen. Reg.)?	by receipted invoices or documents of equivalent probative value. They should allow verifying the legality and regularity of the expenditure declared to the Commission. The supporting documents should include as appropriate documents listed in point 6.1.7 of the COCOF note on the FEI. Any part of the advance for which no eligible expenditure is declared and which cannot be supported by such supporting documents will have to be reimbursed to the Commission.
113	FEIs	3.6	In case FEI (operation) is fully implemented and has reached its goals, can it be closed before the closure of the OP (what kind of procedures should take place in that case)? Is it possible to report on eligible expenditure (considering Article 78(6) Gen. Reg.) before the closure of the OP (leaving the FEI for the further functioning), or the closure is only possible together with the closure of the OP? Partial closure of FEI: Can FEI be closed prior to the closure of an OP or only at the time of the closure of the respective OP? If yes, what procedures should be followed? How a FEI could be closed prior to the closure of an OP if the MS intends to keep the instrument operational?	In line with Article 78(6) Gen. Reg., partial closure of the OP can include FEI. If the lifetime of a FEI ends before the (partial or final) closure of the OP then the FEI could be closed in full respect of the exit policy as referred in the funding agreement. It is however useful to recall the provisions of Article 78(7) according to which resources returned to the operation from investments undertaken by a FEI shall be reused by the competent authority for the same type of activities. Partial closure can take place when the operation is completed during the period up to 31 December of the previous year. FEI could be presented to partial closure if the entire OP amount paid to FEI (+ any interest earned on OP contribution to FEI) has been spent for investments in final recipients and eligible management costs and fees. In this case the operation can be considered completed. Eligibility of management costs ends with the partial closure. The completion of FEI operation does not mean that the FEI needs to wind up. It will continue with the outstanding OP loans, guarantees and investments and it will operate with resources returned to the operation (which are not anymore OP resources). Similarly many FEIs after closure in 2017 will continue their operations with resources returned (revolving funds).
114	FEIs	3.6	Procedures applicable for FEI at the closure of OPs (reports and expenditure declarations to be submitted by the Member State at the final and partial closure); should the Member State only declare the amounts to be returned resulting from the difference between amounts indicated under points a), b), c), d), e) of Article 78(6) Gen. Reg. and total expenditure paid in establishing or contributing to specific FEI funds?	The procedure should be the following: 1. In interim payments the MA declares as eligible expenditure the expenditure paid in establishing or contributing to the FEI in line with Article 78(6) Gen. Reg. 2. At closure the MA should declare as eligible expenditure only amounts invested in final recipients and eligible management costs and fees as set out in Article 78(6) Gen. Reg. 3. At closure it can happen that the amount already declared to the Commission in interim payments (amount paid into the FEI) is higher that the eligible expenditure at closure (investments in final recipients and management costs). In this case the eligible expenditure at closure will be lower than the expenditure declared in interim payments for FEI. To sum up, the MA should declare as eligible expenditure at closure the amount which is equal to: the amounts invested in final recipients and eligible management costs and fees - Article 78(6) a), b), c) d) e) minus [interest earned on OP payments to FEI which are attributable to structural funds not reused by the fund for support to final recipients or management costs and fees] minus [any arrangements fees overlapping with eligible management costs and fees declared under 78(6) d)].

Q	Topic	Reference to the Guidelines	Question	Answer
115	FEIs	3.6	What kind of procedures should be applied by the AA during implementation and (or) closure of FEIs? What would be the legal background for such actions considering that the AA is responsible for verification of 1) the effective functioning of the MCS - while the managers of holding funds and FEIs are not part of MCS and 2) the expenditure declared to the European Commission - because of applying the random statistical sampling no FEI sample can be selected: at the closure of FEI no new payment claims will be submitted to the EC (and therefore, not sampled) and /or the amounts to be recovered will be so small that they will not be sampled.	The audit approach to be applied by AAs during implementation is set out in the Common Audit Framework developed for auditing FEIs under EC Structural Funds (transmitted to all AAs by letter of 11/10/2011 (Ares(2011)1078561)). The AA work on FEI at closure should include thematic audits focused on checking if the final balance was calculated in compliance with Article 78(6) and (7) Gen. Reg. and the MA took into account all EC and national audit findings for the FEI selected at closure. While the expenditure paid in establishing or contributing to the FEI can be included in an interim statement of expenditure, the eligibility of this expenditure will be ultimately verified at closure and is subject to the assurance given in the closure declaration by the AA in line with Article 62(1)(e) Gen. Reg.
116	Specific eligibility rules applicable to FEI	3.6	Is it true that for Guarantee Funds it is not the full value of a guarantee contract that can be incorporated into the statement, but only the part which would match with a market risk assessment to cover expected and unexpected losses?	The value of a guarantee contract within a guarantee fund should be established through a market risk assessment to cover expected and unexpected losses. An artificial inflation of guarantee funds above the specified requirements for the risk does not correspond to the principles of sound management of fund absorption. The value of a guarantee contract within a guarantee fund can be revised accordingly by the MA during the programming period, for example, if there is a change in the risk situation. Eligible expenditure at closure are the guarantees provided (for the loans actually disbursed to final recipients, which have already reached their maturity, irrespective of whether the guarantees have been used or not), and bound guarantees (for the loans actually disbursed to final recipients which have not yet reached their maturity).
117	Revenue generating projects	3.7	The information on revenue generating projects is collected yearly (no longer than 5 years) with reports submitted after the end of the project. In some cases the latest data will be submitted no later than 31.01.2017. How the Commission will treat 2 month period that can't be covered? In our opinion, to ask the information from the beneficiary additionally, before 31.03.2017, can be treated as administrational burden and therefore inappropriate.	Deduction of revenues on the basis of Article 55 (4) Gen. Reg. is required at the latest at the time of submission of closure documents. For practical reasons the cut-off date for the transmission of the revenues concerned by the beneficiaries is necessarily earlier. It is up to the national authorities to collect the information in advance of the submission of the closure documents possibly basing themselves on forecasts from the beneficiaries.
118	Revenue generating projects	3.7	In accordance with Article 55(3) Gen. Reg.: where it is objectively not possible to estimate the revenue in advance, the net revenue generated within five years of the completion of an operation shall be deducted from the expenditure declared to the	In the case of Article 55(3) Gen. Reg. revenues generated within 5 years of the completion of the operation should be deducted by the CA from the expenditure declared to the Commission. Any deductions are to be made at the latest at the submission of closure documents, but of course could be made before that. Deduction of the revenues generated is done at the latest at closure i.e. by 31.03.2017. If the

Q	Topic	Reference to the Guidelines	Question	Answer
			Commission. If there are such projects for which this five year period ends after the 31.03.2017 (i.e. after the submission of closure documents), which period should be taken in the net revenue calculation? The question concerns wording „at the latest“. Does it mean that net revenues should be deducted (under the applicable conditions) at least once after 5 years period (or at the latest at the time of submission of the closure documents)? Whether the net revenue should be deducted every year or once after 5 years (or no later than 31.03.2017)?	five years period ends after closure, revenues are calculated for the period between the completion of the operation (and the start of revenue generation) and the submission of closure documents. In addition, the MA should calculate the contribution these projects are entitled to. If there are new sources of revenue which have not been taken into account in the financial gap analysis, or there is a change of tariffs, or it was not possible to assess revenues in advance, then (additional) net revenue should be deducted by the CA from the expenditure declared to the Commission, at the latest by 31.03.2017 in accordance with Article 89(1) Gen. Reg.
119	Revenue generating projects	3.7	There will be a number of capital infrastructure projects completing late in 2015 and beyond which could become operational in 2017. How should the revenue in these cases be checked and managed in accordance with the Regulations and Guidance? In particular, in the case of Article 55(3) cases where the guidance states "deductions must be made by the national authorities at the latest at the partial or final closure of the OP. These deductions shall be equal to the revenue generated within five years from the completion of the operation"?	Any deductions are to be made at the latest at the submission of closure documents, but of course could be made before that. In the situation presented, revenues will be calculated only for the remaining time, i.e. few months, before the closure documents are submitted to the Commission. For Article 55(3), the interpretation is as follows: deduction is done within 5 years or at closure, whichever comes first. If the closure documents are submitted earlier, i.e. project does not generate any revenue yet, it is fine for the calculation (but it should be completed and in use).
120	Revenue generating projects	3.7	Could EC describe what the changes in tariff policy are, give the best practise examples and explain its monitoring.	The tariffs generated from an investment are usually bound in their development to a price index and as such reflected in the financial analysis. If the tariffs remain linked to the development of such a specific price index, the tariff policy is to be considered as unchanged during the live time of a project. However, in case of a decoupling of the tariff policy from such a price index or one shot tariff increase beyond the price index a change of the tariff policy needs to be reflected in a reassessment of the financial gap.
121	Revenue generating projects	3.7	In case the funding gap initially calculated turns out to be significantly different (over 10%) at closure, the extra revenue generated must be deducted. But what if the revenue generated is significantly lower than foreseen? Should we reimburse the difference to the beneficiary? And should we consider such expenditure as eligible, even if incurred after 31.12.2015, as linked to a correction?	Usually the funding gap will be calculated ex-ante. Only if the revenues cannot be estimated in advance the net revenue generated within five years of the completion of the operation or at latest at closure shall be deducted from the expenditures declared to the Commission. In this case there should be no difference between revenues deducted and revenues actually generated. If the revenues are defined ex-ante the COCOF guidance note 07/0074/09 indicates under section 3.3 that if a project generates from already calculated sources income, this income can be higher or lower than envisaged, but it would not require a recalculation of the funding gap.
122	Revenue	3.7	Taking into account Article 55(2) and (3) Gen. Reg.,	Article 55(2) foresees that the MA should calculate ex-ante the revenue that the projects are

Q	Topic	Reference to the Guidelines	Question	Answer
	generating projects		we assume that it is not the intention to recalculate at the end of the programming period all revenue-generating projects. Is this interpretation correct?	entitled to. This calculation is only to be adapted if new sources of revenue have appeared or if tariffs on the basis of subsequent net increases no longer comply with the initial assumptions made. Article 55(3) deals with revenue that could not be assessed in advance and therefore have to be taken into account ex-post.
123	State aid and eligibility of expenditure	3.8	Request clarification on the deadline for the payment of the "corresponding public contribution" as there is a possible contradiction between section 3.8 of the CGL and Articles 56 and 78(1) Gen. Reg. and on the verification of advances supported by invoices by 31.12.2015.	All eligible expenditure must be paid by the beneficiary before the 31.12.2015 but do not need to be declared to the Commission at that date. Any advance has to be covered by eligible expenditure paid by beneficiaries at latest on the 31.12.2015. There exists no obligation to pay the public contribution to the beneficiary before the 31.12.2015. This can be paid at a later stage (but before the 31.03.2017) based on supporting documents to be checked by the CA.
124	State aid	3.8	For State aid (Section 3.8 of the CGL), it is said that the payments made by the body granting the aid (Public Administrations) must be prior to the date of submission of the closure documents. Is that so?	This is correct and in line with Article 78(1) Gen. Reg. which specifies that as regards aid schemes within the meaning of Article 107(1) TFEU, in order to be eligible, "the public contribution corresponding to the expenditure included in a statement of expenditure shall have been paid to the beneficiaries by the body granting the aid before the submission of the closure documents".
125	State aid / FIR	3.8 / 5.2	Article 67(2)(i) Gen. Reg.: final report on the implementation of the OP shall include cases where a substantial modification has been detected under Article 57. Should the cases that will occur after the submission of the final report be reported to the EC? If yes, which form such a reporting should have?	Article 57 Gen. Reg. refers to the durability of operations and applies to all infrastructure or productive investment. Sums unduly paid must be recovered even if the cases mentioned under Article 57 occur after closure. Member States should inform the Commission (by e-mail or in writing) that will initiate a recovery procedure.
126	State aid	3.8	Taking into account payment of the final balance there is possibility of lack of money in the frames of ERDF dedicated to the beneficiaries of state aid. Is it possible to submit to the EC the last interim payment application that includes state aid beneficiaries' expenditure not paid yet? At the same time it will be safeguard that such expenditure – according to the CGL – will be paid till the submission of the closure declaration.	For state aid 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.
127	State aid	3.8	Advanced payments to the beneficiaries who implement projects under state aid/de minimis aid. Suggested different approach to the public contribution paid or due to be paid to the beneficiaries.	For state aid 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.
128	State aid and	3.8	Is there a deadline for beneficiaries to present the	All expenditure declared at closure are only eligible if paid by the beneficiary before

Q	Topic	Reference to the Guidelines	Question	Answer
	eligibility of expenditure		supporting documents relating to their expenditure incurred and paid before 31.12.2015?	31.12.2015 and supported by receipted invoices or accounting documents of equivalent probative value, unless otherwise provided in specific regulations for each fund. If beneficiaries have received advances by the body granting state aid, they have to pay the corresponding eligible expenditure by 31.12.2015.
SUBMISSION OF CLOSURE DOCUMENTS				
129	Submission of closure documents	4	Could the Commission clarify how all three closure documents – the Final Report, Closure Declaration and Payment Declaration - are to be transmitted together by a 'single body' via SFC 2007 by 31.03.2017 as the MA, AA and AA are individually responsible for submitting their documents to the Commission?	According to the Gen. Reg. (Articles 60-62, 67), the MA is responsible for sending the FIR, the AA is responsible for sending the closure declaration and CA is responsible for sending the payment declaration. There is no regulatory obligation that a single body submits a closure package to the Commission. A single body was mentioned as a suggestion coming from the first Q&A document prepared for COCOF in September 2012. In general, the transmission depends on the internal coordination setup within the given Member State. However, it would be practical, if one selected body would check consistency of the closure documents and would ensure the submission is done on time. It should not be an additional layer which would make the closure more complex.
130	Submission of closure documents	4	Will the SFC2007 be the only method of delivering the closure documents? Or will we have to deliver hard copies?	The closure documents will need to be uploaded to SFC. No hard copies, communication is carried out by using electronic means. In the case of scanning of any paper documents, it should be ensured that the copies are readable.
131	Submission of closure documents (for ETC programmes)	4	How will all three closure documents be transmitted by a 'single body' for ETC programmes and what will be the role of the Group of Auditors in the ETC closure process?	For the ETC programmes a good coordination of the submission is very relevant. Article 14 of the ERDF regulation defines the role of the Group of Auditors and it is up to the programme authorities to design their involvement in the closure process, where relevant. The AA for the OP shall be assisted by a group of auditors comprising a representative of each Member State participating in the OP and carrying out the duties provided for in Article 62 Gen. Reg. The group of auditors shall be set up at the latest within three months of the decision approving the OP. It shall draw up its own rules of procedure. It shall be chaired by the AA for the OP.
132	Submission of closure documents	4	When is the earliest the Commission will accept closure packages?	There is no earliest date for the submission of closure documents, as it would be individual and it would very much depend on the preparedness of the Member State and the progress of implementation. There might be a case where implementation is completed in 2014/early 2015 and the closure could start even before the 15 months period (01/2016 – 03/2017). This is also depending on the audits to be performed by the AA in relation to the latest expenditure included in the closure declaration → if expenses are incurred till 2015, national audits would have to be performed in 2016 before the submission of closure documents. Please see footnote 20 of the CGL: In order to ensure that the AA is able to cover the expenditure declared in 2016 and in view of the deadline of 31.03. 2017 for the submission of the closure declaration, it is recommended that the CA submits the last interim payment claim by 30.06. 2016, at the latest, thus ensuring that after this date no new expenditure will be

Q	Topic	Reference to the Guidelines	Question	Answer
				declared to the Commission before the submission of the final payment application.
133	Deadline for the submission of closure documents	4.2	Given that the deadline for submission of the closure documents is 31.03.2017, is it right to consider the additional deadlines as recommendations for drawing up the internal procedures of each administration, without subsequent check about their effective respect? We refer in particular to the presentation by the CA to the AA of the request for payment of the final balance and the expenditure declaration “at least three months before the expiry of the deadline of 31.03.2017” and the presentation by the MA to the CA of the final declaration of expenditure "in good time before “31.03.2017”.	The "additional deadlines" set in the guidelines are only recommendations to ensure the timely treatment of documents at closure based on lessons learnt from the past.
134	Deadline for the submission of closure documents	4.2.	It is recommended in the guidelines (and was also presented in the seminar on closure) that the last interim payment claim is submitted by 30 June 2016. We would like to assure ourselves that it is only a recommendation since it can be assumed that for some projects this deadline will not be met.	Yes, it is only a recommendation.
135	Submission of closure documents / FIR	4 / 5.2	Will it be possible to include the AIR for 2015 with the closure documents in March 2017? Can we get confirmation that the information submitted in the AIR is the same information that is submitted in the closure package? If you accept the AIR in 2015/2016 can we expect that the closure documentation will be built on this without any additions? Annex VI of the guidance (Point 11) which sets out the requirements for MAs and IBs. This list contains elements which would not normally be covered by the AIR format. As such, we need clarification on how the EC will expect MAs to present this data. They had indicated at the Q&A session that they would accept the 2015 AIR as the MA Final Report required for closure. However, there is clearly a gap between the two formats and it would be helpful to	As stated in the section 4.2 of the CGL "in June 2016, the Member States are not required to submit the AIR for the year 2015, with the exception of the data on FEIs in accordance with Article 67(2)(j) Gen. Reg." Therefore the last AIR expected will be for the year 2014 (submitted by 30.06.2015). Information on the programme implementation in 2015 is included in the aggregated information of the FIR. Requirements on the AIR and FIR are defined in Annex XVIII Imp. Reg. and their structure is the same. However, some additional elements in relation to the final control report and closure declaration are required as outlined in Annex VI of that Regulation. Furthermore, the FIR should provide information which would allow concluding that an MP is completed and is in use and that it was implemented in compliance with the corresponding Commission decision. It could be in a form of general statement or a separate brief section on each of the MPs. The FIR should contain the information on the progress made in financing and implementing the FEIs as provided for in Article 67(2)(j) Gen. Reg. Since for FEIs the eligible expenditures is declared at the time of closure, certain elements have to be additionally reported to the Commission as they are relevant for the eligibility of expenditure declared. These are for example: 1) information on withdrawals of OP resources

Q	Topic	Reference to the Guidelines	Question	Answer
			know how it is proposed that this should be handled	from FEI (which has impact on the calculation of eligible management cost/fees), 2) amount of capitalised interest rate subsidies and guarantee fee subsidies (as referred to in section 3.6.3) 3) interest generated by payments from OP and attributable to Structural Funds. Moreover, information on legacy funds (repayments from investments/defaults) and legacy arrangements should be separately reported in order to be in line with the requirements of Article 78(7) second paragraph Gen. Reg.
136	Submission of closure documents / FIR	4 / 5.2	If the multi-fund option is chosen for the period 2014-2020, and therefore a single monitoring committee is set up, to whom shall the closure documents, in particular the FIR of the current programming period2007-13, be submitted?	When setting up the monitoring committee, and assuming that the 2014-2020 monitoring committee includes the members of the former monitoring committee, it is up to the MS to set out transitional provisions providing that the 2014-2020 single monitoring committee will examine the 2007-13 FIR. Lessons learned from the transitions between former programming periods could be re-used.
137	Submission of closure documents / AIR	4 / 5.2	In the light of the possibility not to submit the AIR for the year 2015, how will data on financial engineering systems be presented by June 2016? Is the prior approval of the monitoring committee needed? Where use is made of the possibility not to submit the AIR 2015 by June 2016, we ask confirmation that the data relating to FEIs should be provided by completing the relevant sheets in the IT system SFC, without passing through the prior approval of the monitoring committee.	There is no provision that requires a prior approval of the monitoring committee when it comes to this specific submission of data related to the implementation of FEI in 2015 to be submitted by June 2016.Anyway, these data should be incorporated afterwards in the FIR that is due to be approved by the monitoring committee at closure.
138	Changing closure documents	4.3	As far as concerns recovered amounts in the period 1 January 2017 - 31 March 2017 – till the submission of statement of expenditure and final payment application to the AA, there will be the possibility to correct these documents. Is it possible to correct above mentioned documents after the submission to the AA? How will it correspond with the obligation of the CA imposed by Article 61(f) Gen. Reg., in terms of returning funds to the EC before closure of the OP, by correcting the statement of expenditure? Will be regulations provided for in point. 4.3 of the CGL (changing documents after the deadline for their submission) applicable in such situation?	Even after the submission of the last interim payment to the AA, the CA must according to article 61(f) Gen. Reg. deduct from the statement of expenditure amounts recovered. Moreover section 4.3 of the CGL specifies that at closure the CA will have the possibility after the submission of statement of expenditure and final payment application to the AA to revise figures by withdrawing expenditure in case the Member State needs to correct clerical mistakes or provide supplementary information to the Commission. The Member State has to ensure that financial information is coherent with all closure documents and annex XI Imp. Reg.
139	Changing closure documents	4.3	Could you explain point 4.3 of the CGL: Member States will not be allowed to modify any of the	If the Member State has submitted the closure documents well in advance before the deadline for submission (31.03.2017) it will have the possibility to modify the closure

Q	Topic	Reference to the Guidelines	Question	Answer
			closure documents listed under Article 89(1) Gen. Reg. after the deadline for their submission, except for correcting clerical mistakes and in the situations described below. Please describe the procedure of modification of the closure documents in SFC before the deadline for submission? Will it be possible to correct the report after the deadline for submission (and how)?	documents and send them back to the Commission until the final date of submission. After the deadline (31.03.2017) the only possibilities to modify the closure document are foreseen in point 4.3 of the CGL. SFC will allow the replacement of closure documents until the final date of submission.
140	Availability of documents	4.3	Is it true that the final certificate of expenditure (and final declaration of expenditure) from the CA must contain no new positive expenditure? In other words: should new positive expenditure be declared for the last time in the last interim payment claim?	After the deadline for the submission of closure documents, no new expenditure shall be included in the declaration of expenditure. Through the removal of amounts, the expenditure may however be revised downwards. The final declaration may include new positive expenditure if it has been covered by tests and considered as regular by the AA before signing the closure declaration.
141	Availability of documents	4.4	Does the “list of all functioning operations for the full period of three years following the closure of the programme” mean a project list? What is the minimum content of it? Are the non-operational projects which remain subject to the statement of expenditure and which have to be completed within two years with national resources (see point 3.5)? To what relates the addition “for the full period of three years”?	Such a list of projects should only be delivered to the Commission upon request. Non-functioning projects should be included in it, since they are part of the final payment. Project name and amount allocated are minimum requirements. The Member State must be ready to produce such a list at any time if requested by the Commission or the Court of Auditors during a period of three years after closure as foreseen under Article 90 Gen. Reg.
142	Submission of closure documents / availability of documents	4.4	What is meant by "a list of all functioning operations" that the MA must make available to the Commission on request?	A list of all functioning operations is needed in order to allow national AAs to verify expenditure before closure. But, with the exception of MPs, such a list is not requested at closure. The Member State must nonetheless be ready to produce such a list at any time if requested by the Commission or the Court of Auditors during a period of three years after closure as foreseen under Article 90 Gen. Reg.
143	Availability of documents	4.4	In the case of public subsidies, does the obligation of keeping records for three years after the closing reached also the final recipient of the aid? Or is the body granting the aid (Public Administration) the one who is required to really keep that documentation, to the extent that they keep a dossier containing all the necessary documents that support the aid granted?	Article 90 Gen. Reg. specifies that it is the MA who must ensure that all supporting documents regarding expenditure and audits are kept available for three years after closure and that these documents shall be kept either in the form of the originals or in versions certified to be in conformity with the originals on commonly accepted data carriers. It is therefore for the MA to decide on the best way to comply with the regulation and to ensure that supporting documents relating to expenditure and audits will be available to the Commission and the Court of Auditors until three years after closure.
144	Availability of documents	4.4	Regarding the availability of documents (section 4.4), is it necessary that the documents are kept on paper? Would it be sufficient in digitized version	Supporting documents must be kept either in the form of the originals or in versions certified to be in conformity with the originals on commonly accepted data carriers.

Q	Topic	Reference to the Guidelines	Question	Answer
			under Spanish legislation (specifically the provisions of the Resolution of 19 July 2011 by the Secretaría de Estado de Administraciones Públicas (Secretariat of State for Public Administrations), for which the Technical Standard for Interoperability for Scanning Documents is approved - BOE of 30 July 2011), which among other things ensures that a faithful and complete entire image is kept)?	
CONTENT OF CLOSURE DOCUMENTS				
145	Closure documents	5	What might be the effects of the transmission of addenda out of time modifying the documentation submitted on time (e.g. OP's closure report or AA's control reports)?	The three closure documents (final report, closure declaration and payment declaration) are to be transmitted via SFC at the latest on 31.03.2017. There will not be any extension of this deadline. There is no possibility for Member States to correct the information submitted at closure after the deadline. However, there is a possibility to provide additional information on the FIR within a deadline of 2 months in response to comments made by the Commission. In case of irregularities discovered after closure, the Member State must inform the Commission by letter indicated the amounts recovered in order for the Commission to calculate the EU share to be reimbursed to the EU budget.
146	Closure documents	5	What might be the effects of a request for clarification sent by the Commission after 31.03.2017 resulting in changes to the documents submitted?	There is no possibility for Member States to correct the information submitted at closure after the deadline. However, there is a possibility to provide additional information on the FIR within a deadline of 2 months in response to comments made by the Commission. The impact would depend on the type of information requested.
147	Content of closure documents	5	Will there be a set format required? What format will the Commission accept ?	Yes, there are templates for the document in the Imp. Reg., plus annexes of the CGL. Templates have to be followed.
148	Certified statement of final expenditure: Overcommitment / Overbooking	5.1	Is it possible to submit a payment claim for more than 100% of the allocation to the EC? We are aware of the fact that the EC cannot pay more than 100% of the allocation for the priority axis (EU contribution), but we assume that in the statement of final expenditure and final payment claim we can exceed 100% of the allocation because the commitment might have been decreased after the submission of closure documents.	Yes, it is possible, the CA may declare to the Commission certified expenditure for more than 100% of the contribution from the Funds to the priority axis, but as it is correctly mentioned, the Commission shall not pay more than 100% of the contribution from the Funds to the OP. Article 89 Gen. Reg. provides the conditions for the payment of the final balance. Moreover, the amount paid through interim payments and payment of the final balance of the programme should not be higher than the public contribution and the maximum of the assistance from the Funds of the concerned programme. In order to be able to replace expenditure, the Member State should declare all eligible expenditure including "overbooking" in the final claim.
149	Certified statement	5.1	Are the "overcommitment" projects bound to 2013 ?	No, the Member State may declare eligible expenditure, including expenditure of

Q	Topic	Reference to the Guidelines	Question	Answer
	of final expenditure: Overcommitment / Overbooking			"overbooking" operations, in the application for payment of the final balance. Such expenditure should be paid by the beneficiary up to 31.12.2015.
150	Certified statement of final expenditure: Overcommitment / Overbooking	5.1	When over contracting is used and during implementation of projects more eligible expenditure will be actually made, than it was planned in the financial plans of the OPs, do we have to include all eligible expenditure, which was made by the beneficiaries, in the final statement of expenditure or we have to include only the sum of expenditure which exactly corresponds to the total sum of eligible expenditure planned in the financial plans of the OPs on the level of Priority Axes?	It is up to Member States to decide whether they “resort overbooking”. It is possible and advisable to include all eligible expenditure beyond financial plan because this could provide a buffer in case of individual financial correction. In any case, the expenditure corresponding to overbooking has to be covered by sufficient national funding sources. Please note in this context that financial corrections after closure will be net corrections unless the Member State has the possibility to replace the related irregular expenditure on individual projects by supplementary expenditure declared under the priority axis at closure (overbooking). However, financial corrections linked to systemic irregularities imposed by a Commission decision under Article 100 (5) Gen. Reg. after completion of the procedure laid down by Article 100(1) to 100(4) will involve net reduction in the Member State's indicative allocation of funding under Article 18 (2) Gen. Reg.
151	Certified statement of final expenditure: Overcommitment / Overbooking	5.1	Does overbooking provide a buffer for financial corrections decided by the Commission at closure?	Financial corrections after closure will be net corrections unless the Member State has the possibility to replace the related irregular expenditure on individual projects by supplementary expenditure declared under the priority axis at closure (overbooking). So yes overbooking could provide a buffer in case of individual financial correction. However, financial corrections notably linked to systemic irregularities imposed by a Commission decision under Article 100 (5) Gen. Reg. after completion of the procedure laid down by Article 100(1) to 100(4) will involve net reduction in the Member State's indicative allocation of funding under Article 18 (2) Gen. Reg. In this case, overbooking will not be able to compensate the financial loss.
152	Certified statement of final expenditure: 10% flexibility	5.1	Application of the 10% flexibility rule in use and its effect on the absorption and on programme modifications.	Pursuant to the adoption of amending Reg.1297/2013, the 10% flexibility will apply according to the newly amended provisions set out in article 77 without prejudice to compliance with other regulatory restrictions (TA ceiling, non-transferability of resources between objectives and their components)
153	Certified statement of final expenditure	5.1	Can the earlier years allocations be modified?	• in case of transfer of allocations between programmes by the end of 2013 : modification of the 2013 commitment(see replies to question 4 and 6) • in case of transfer of allocations between priority axis within a given OP by the end of 2015: possible modification of the earlier years
154	Certified statement of final expenditure	5.1	WEFO still have some concerns with regards to the arrangements for the final declaration of expenditure and potential discrepancies between the latest agreed OP and the final position once all final payments have been made to beneficiaries.	The MA should establish a system of financial management, which would allow for absorbing as much as possible from the EU resources available. The Member State should be ready to administer potential savings in the project implementation or modification and cancellation of certain projects. COCOF note 09/0036/01 "calculating interim payments and payments of the final balance

Q	Topic	Reference to the Guidelines	Question	Answer
			Could the Commission clarify the use of the EC approved closure calculation (based on priority rate) which appears to contradict the established rule that total drawdown cannot exceed the rate actually paid out? As an example: Priority 1 allocation total expenditure €100, grant €50, grant rate 50%. Final declaration is total expenditure €120, total public expenditure €120. So by the calculation, the calculation is the minimum €120*50% = €60 or €50 = €50. This does not appear to take into account that we approved at 25% and so only paid out €120*25% = €30. The calculation does not appear to take into account the amount paid by the MA, so we pay €30 and receive €50. This is in line with the interim payment calculation.	and related issues" addresses this specific issue with concrete examples.
155	Discrepancy of documents - final declaration of expenditure	5.1	Example: Operation A has estimated Total Eligible Expenditure of € 25.000.000. The EC grant in the grant agreement is 0,4% and has a maximum of € 100.000. The operation has real Total Eligible Expenditure of € 27.500.000. The expenditures fits in the OP and are legal and regular. The amount of € 27.500.000 is declared to the Commission. The AA has selected the operation and didn't discover any errors. Based on the intervention percentage of 50% the EC pays the MA (via the CA) a contribution of € 13.750.000. The beneficiary receives from the MA € 100.000. Now there are two options: -The beneficiary uses the amount of € 13.650.000 for other operations. These operations are not declared to the Commission, so not certified by the CA and also not audited by the AA, because declaration is not necessary anymore to get the budget from the Commission;	The example would be in contradiction to the requirements of section 5.1.1 of the CGL which requires that the amount of public contribution (as declared in the certified statement of final expenditures) should be at least equal to the contribution paid by the Commission to the programme. There should be a record confirming that the contribution paid has been paid to eligible projects and beneficiaries. According to Article 80 Gen. Reg. the bodies responsible should ensure that the beneficiaries receive the total amount of public contribution as quickly as possible and in full. Such an assurance is to be provided in the closure documents.

Q	Topic	Reference to the Guidelines	Question	Answer
			-The amount of € 13.650.000 is not spend at all at the closure of the programming period. Question: how to handle for each of the two abovementioned options at the closure of the program by the MA, CA and AA? Are there any consequences for the closure declaration and if yes, which consequences?	
156	Certified statement of final expenditure, final payment application	5.1	How will the ERDF/ESF reimbursement be calculated with regard to priority axis co-financing rates? If the amount of reimbursement calculated at closure for a particular priority axis is higher than the amounts due to be paid to beneficiaries, what will be the exact amount paid by the Commission? How does this fit with section 5.1.1?	The final balance will be calculated by applying the co-financing rate of each priority axis to the eligible expenditure declared and certified under each of these priority axes. However, pursuant to the adoption of amending Reg.1297/2013, a 10% flexibility will apply according to the newly amended provisions set out in Article 77(12) without prejudice to compliance with other regulatory restrictions (TA ceiling, non-transferability of resources between objectives and their components): "By way of derogation from paragraph 10, the Union contribution through payments of the final balance for each priority axis shall not exceed, by more than 10 %, the maximum amount of assistance from the Funds for each priority axis as laid down in the decision of the Commission approving the OP. However, the Union contribution through payments of the final balance shall not exceed the public contribution declared and the maximum amount of assistance from each Fund to each OP as laid down in the decision of the Commission approving the OP." There should be a record confirming that the contribution paid to Member States has been paid to eligible projects and beneficiaries. According to Article 80 Gen. Reg. the bodies responsible should ensure that the beneficiaries receive the total amount of public contribution as quickly as possible and in full. Such an assurance is to be provided in the closure documents. Subject to the fulfilment of provisions laid down in Article 80 Gen. Reg., there is no regulatory request to reconcile grants paid to applicants and grants received from the Commission. It is up to the Member State to decide whether such reconciliation would be relevant for financial management purposes at national/OP level. It is therefore possible that the co-financing rates offered to some projects differ from the co-financing rates foreseen under each priority axis and as a consequence, it may happen at times that ERDF/ESF amounts reimbursed to a Member State are not fully transferred to beneficiaries. But at closure the amount of ERDF/ESF funds paid to the programme must be equal to the amount of public contributions paid or to be paid to beneficiaries for the implementation of projects under that programme.
157	Certified statement of final expenditure, final payment application	5.1	Do the MAs have to respect the public/private contribution amounts foreseen in the financial plan or is there flexibility?	When the EU contribution is calculated with regard to public contribution only, the public contribution amount indicated in the financial plan must be respected in order to trigger the full payment of the EU contribution. When the EU contribution is calculated with regard to public and private contribution (total expenditure), the amount of national contribution foreseen in the financial plan must be

Q	Topic	Reference to the Guidelines	Question	Answer
				respected in order to trigger the full payment of the EU contribution; but the split between national private and public contribution does not need to be respected as according to Article 37 (1)(e)(ii) Gen. Reg., it is indicative. A 10% flexibility will nonetheless apply between priority axes, meaning that the maximum amount of EU contribution foreseen under a priority axis can be exceeded by maximum 10% (if more eligible expenditure can be declared under that priority axis) to compensate for another less performing priority axis. Of course the overall amounts (at programme level) foreseen for the national contribution and for the EU contribution must be respected. It is to be noted that the financial table can be modified until 31.12.2015.
158	Certified statement of final expenditure, final payment application	5.1	Do we have to reconcile grant paid to applicants and grant received from the Commission? If so who is responsible for doing this? What is the format for doing this?	Subject to the fulfilment of provisions laid down in Article 80 Gen. Reg., there is no regulatory request to do such reconciliation. It is up to the Member State to decide whether such a reconciliation would be relevant for financial management purposes at national/OP level
159	Certified statement of final expenditure, final payment application	5.1	Considering the fact that the public contribution to final beneficiary can be paid after the 31.12.2015, what date should be indicated in the certificate as a date of closure of accounts ?	If this question is referring to the certificate in annex X, the date of closure of the accounts should be one of the following: • the date of the certificate • or, if earlier than the above mentioned, the date of registration of the amounts paid in the CA accounts
160	Certified statement of final expenditure, final payment application	5.1	Please confirm our understanding, that the cross-financing, when the project/activity has been financed partly from ESF and ERDF, presentation in the final statement of expenditure is only for informative purposes and should not be taken for calculation of the amount claimed.	The information included in the final statement of expenditure will allow for a consistency check ensuring the verification of the respect of the thresholds for cross-financing foreseen in Article 34(3) Gen. Reg. There need to be a consistency check (by MS and the COM) between the information on cross-financing provided in the final statement of expenditure and in the FIR (cf. table 2-1-2 of Annex XVIII Imp. Reg.). For the sake of clarity, cross-financing does not refer to projects financed partly by ESF and ERDF. It refers to expenditure falling under the scope of one fund but fully financed under an OP co-financed by the other fund.
161		5.1	To which date should refer the final certificate of expenditure and the final payment claim? Should these documents already take into account the corrections due to the results of the last audit performed by the AA? How will the issue of timely submission of these documents be evaluated?	In order to ensure that the AA is able to cover the expenditure declared in 2016 and in view of the deadline of 31.03.2017 footnote 20 of the CGL recommends to submit the final application for an interim payment by 30.06.2016 at the latest. Results of AAs shall be then taken into account in the final statement of expenditure. A full consumption of the resources can be ensured by overbooking. The corrections due to the results of the last audit of operations performed by the AA should be taken into account in the Annexes.
162	General principle for the payment of	5.1.1	Are there discrepancies possible between the transfer of ERDF Funds by the EC to the	As mentioned in Section 5.1.1 of the CGL, discrepancies can occur between the payments from the Union to the priority (EC transfers to the programme bank account) and the effective

Q	Topic	Reference to the Guidelines	Question	Answer
	the balance		programme bank account and the ERDF Funds paid by the CA to project promoters, as long as the maximum ERDF contribution under the Commission Decision on the programme is not exceeded and the EC transferred ERDF appropriations represents at least an equal amount of public participation. This public contribution includes public funds and public own resources paid to the final beneficiaries.	Funds contribution to the operations co-financed under that priority (ERDF funds paid to the project promoter by the CA). However, it must be ensured that the public contribution to the respective project corresponds at least to the ERDF contribution transferred to the programme bank account. This public contribution may include the ERDF Funds repaid to the final beneficiary, complemented by other public resources in order to reach at least the ERDF contribution paid into the programme bank account.
163	Irregularities after the submission of closure documents	5.1.3	How will we deal with irregularities that are known only after the submission of the closure documents?	The CA must ensure that only correct, regular and eligible expenditure are declared to the Commission. In case of suspected (but not yet proven) irregularity at the time of submission of closure documents, it is up to the AA to make an assessment of the case for the purpose of the audit opinion in the closure declaration (in line with the guidance on treatment of errors) and for the MA/CA to decide whether to keep or withdraw that given project from the final certified statement of final expenditure, having in mind that a financial correction after closure (where the irregularity at stake is confirmed) will in principle be a net correction (see below). For irregularities detected after submission of the closure documents, the Commission will apply net financial corrections unless the Member State has the possibility to replace the related irregular expenditure on individual projects by supplementary expenditure declared under the priority axis at closure (overbooking). However, financial corrections linked to systemic irregularities imposed by a Commission decision under Article 100 (5) Gen. Reg. after completion of the procedure laid down by Article 100(1) to 100(4) will involve net reduction in the Member State's indicative allocation of funding under Article 18 (2) Gen. Reg.
164	Recoveries and irregularities	5.1.3	How the irregularities before and after the date of the eligibility of expenditures will be treated? And also in relation to the completion of the Annex XI Imp. Reg.? For example, will irregularities investigated by the Police be subject to legal proceedings and administrative appeals, when these cases will not be tackled till the date of closure of the programme?	If irregularities are detected at closure, they should be corrected according to Article 98 Gen. Reg. Otherwise Article 99 might apply. If amounts with regard to irregularities are considered irrecoverable they should be declared under Annex XI(3). In case they are considered recoverable they should be declared under Annex XI(2) as pending recoveries. In case of suspected irregularities the Member State should withdraw the relating expenditure from the statement of expenditure. It is important to separate two issues: • 'normal' irregularities, which are being recovered (reported under Annex XI(2)), i.e. for which point 5.1.3 of the CGL applies, are to be included in the final payment application but the Commission will not pay for them. The question here is also how to treat the irregularities discovered after closure, where recoveries occur – i.e. should be somehow returned to the EU budget – see 5.1.3 last sentence.

Q	Topic	Reference to the Guidelines	Question	Answer
				• irregularities subject to legal proceedings/administrative appeals, where the Member State could not declare until the national authorities take a final decision; here, point 8 applies – the Member State should inform the Commission about the amount which could not be declared and the Commission will keep a commitment open.
165	Recoveries and irregularities	5.1.3	How do we prepare the Report on the closure of the operation and the checklist for the operations where an irregularity was found after certification and repayment needs to be made?	The CA is obliged to ensure that only correct, regular and eligible expenditure is declared to the Commission. The AA should assess the validity of the application for payment of the final balance and the legality and regularity of the underlying transactions covered by the final statement of expenditure, which is supported by a final control report. In case irregularities are found before the submission of closure documents they need to be corrected in line with Article 98 Gen. Reg. and the closure documents should reflect on that.
166	Recoveries and irregularities	5.1.3	How to prepare the Report on the closure of the operation and the checklist for the operations where the company went bankrupt after certification and we hope that we will receive something from the bankruptcy estate?	In case the Member State considers such amounts as recoverable, in line with Article 20(c) Imp. Reg., they should be reported in the annual statement by 2017 under Annex XI(2) Imp. Reg. (pending recoveries).
167	Recoveries and irregularities	5.1.3	How to close a project in case where irregularities have been detected but not proven yet – in other words – how to proceed in case of suspected fraud?	In case of suspected (but not yet proven) fraud at the time of submission of closure documents, it is up to the AA to make an assessment of the case for the purpose of the audit opinion in the closure declaration (in line with the guidance on treatment of errors) and for the MA/CA to decide whether to keep or withdraw that given project from the final certified statement of final expenditure, having in mind that a financial correction after closure (where the irregularity at stake is confirmed) will in principle be a net correction (see above the reply to question 150).
168	Recoveries and irregularities	5.1.3	Do we understand correctly that only amounts above 10,000 EUR should be reported?	In case of irregular amounts below EUR 10,000, the amounts concerned should be reported in the final statement on withdrawn and recovered amounts, pending recoveries and irrecoverable amounts even if they fall below the threshold for notification to OLAF. For more precise information, please refer to section 5.1.4 of COCOF note 10/0002/01/EN (Guidance note to CAs on reporting on withdrawn amounts, recovered amounts, amounts to be recovered and amounts considered irrecoverable). As regards the closure exercise, the financial reporting required under Article 20 and provided within Annex XI Imp. Reg. is to be considered independent from the reporting required under Article 28 Imp. Reg.
169	Recoveries and irregularities	5.1.3	Please clarify what are the steps of reporting and handling pending recoveries. Should "pending recoveries" be deducted from the final payment claim? Confusing is what decision the MS has to make if it is clear that all pending recoveries should be deducted for the final payment claim.	The pending recoveries are not deducted from the final payment claim, i.e. the corresponding expenditure is included in this claim, as set out in the first bullet point of section 5.1.3 of the CGL and as it was done with the interim payment claims. The Commission will not pay the corresponding expenditure. The only exception would be if, after submission of the final payment claim, the Member State considers that a pending recovery is irrecoverable and the Commission accepts that the Union's share of the irrecoverable amount is to be borne by the general budget of the European Union, following

Q	Topic	Reference to the Guidelines	Question	Answer
			In case of "pending recoveries" should the Member State inform the EC about the results of the procedure: in which form and where should be this information submitted? (As part of the annual report for 2016?) If the result has not been known yet, will the EC require additional information?	an appropriate examination of each case presented by the Member State. The opposite situation would be when, after submission of the final payment claim, the Member State recovers an amount higher than the one disclosed as pending recovery, in which case the difference should be paid back to the Commission. • For pending recoveries known before closure : they are to be communicated to the Commission so that the statement of expenditure is corrected accordingly if need be (point 4.3 of CGL) in order to allow the appropriate closure of the OP. • In case the results are known after closure i.e. amounts are recovered, they need to be communicated in order for the Commission to close open commitments. As established in the CGL, the Member States should inform the Commission on the outcome of the pending procedures after closure. This follow-up information is to be transmitted by the Member State by letter addressed to the competent Commission service, with the identification of programme and pending recoveries at stake. Additional information may be requested by the Commission in case of application of Article 20(2)(d) Imp. Reg. The reporting foreseen in Annex XI Imp. Reg. will cease to exist after 31 March 2017.
170	Recoveries and irregularities	5.1.3	What are the modalities in place to repay the EU budget in case of recoveries received after closure and the final payment has been made to the Member State? In case of pending recoveries, what are the modalities in place allowing the MS to send the relevant information on the follow-up of on-going administrative or judicial procedures? How regularly should updates be sent to the Commission? Should a new irregularity be discovered after closure, what should the Member State do? Declare it as pending recovery in order to keep a commitment open? Is there a time limit /final date after which an irregular amount should be declared as "irrecoverable"? In case of administrative and judicial procedures between the Region and the beneficiary, if the judgement is in favour of the beneficiary and the Region must pay, will the Region be able to claim that amount to the Commission even after closure	Pending recoveries are not deducted from the final payment claim but will not be paid by the Commission. In case that a pending recovery is finally recovered this open debt to the respective Member State will be cleared. The CGL outline under section 8 that the Member State should keep the Commission informed on the outcome of the legal proceedings or administrative appeals. Member States should update the Commission when relevant new information is available. Irregularities discovered after the submission of closure documents and which irrecoverability rises before the settlement of the final balance can be considered therein if justified. Irregularities disclosed after the settlement of the final balance will lead to a financial correction that should trigger a reimbursement to the EU budget. There exists no time limit with regard to justified financial correction. If a commitment has been kept open, due to an ongoing legal procedure, and has to be turned into a payment to the beneficiary, the expenditures will be reimbursed to the national authorities within the limits of the result of the calculation at priority axis level. The same would apply for an open legal procedure concerning a conflict between beneficiary and contractor. However, the payment will be not eligible if paid after the 31/12/2015.

Q	Topic	Reference to the Guidelines	Question	Answer
			(will the commitment remain open for these amounts as well)? In case of administrative and judicial procedures between the beneficiary and one of his providers, if the judgement is in favour of the provider and the beneficiary must pay, will the beneficiary be able to claim the amount at stake even after closure (will the commitment remain open for these amounts as well)?	
171	Recoveries and irregularities	5.1.3	At section 5.1.3 - Recoveries and irregularities, it is mentioned that “the amounts indicated in Annex XI(2) as “pending recoveries” should be included in the final payment application …”. The question is that, at the final application taking into account that the accredited system is “recovery”, no measure should be taken regarding debts to be recovered? These debts to be recovered should not be deducted from the final payment application? In this context, how should be treated the amounts indicated in Annex XI(3) in the final application?	Pending recoveries should be included in the final payment application but will not be paid by the Commission. They will constitute an open commitment. The Member State shall inform the Commission on the outcome of the pending recovery procedures. Amounts that cannot be recovered should be declared as irrecoverable amounts and unless the Commission asks the MS for further information, to pursue the recoveries or open an enquiry, the corresponding amount will be paid on the commitment left open. Amounts that can be recovered will be excluded and the amount decommitted. The Member State will be asked to correct downwards the final payment claim after 31.03.2017 (point 4.3 of the CGL). Section 5.1.3 of the CGL states that „for the amounts declared under Annex XI(3) as "irrecoverable amounts", where the Member State requests the Union's share to be borne by the general budget of the European Union, the Commission will carry out an appropriate examination of each case. In this respect it will either (a) inform the Member State in writing about its intention to open an enquiry in respect of that amount or (b) request that the Member State continue the recovery procedure or (c) accepts that the Union's share is borne by the general budget of the EU“. If the MS asks the EU Budget to share the burden of irrecoverable amounts declared under Annex XI(3), these amounts should be included in the final statement of expenditure.
172	Recoveries and irregularities	5.1.3	Could the Commission clarify that ‘pending recoveries’ or ‘amounts in dispute’ will only be deducted from the final Payment Claim [after the recovery procedure has finished]?	Yes normally but "pending recoveries" and "amounts in dispute" are to be addressed separately. Information process for "pending recoveries" vs. negotiation process for "amounts in dispute". Moreover, this is subject to the position taken by the AA. In practice this should be discussed on a case-by-case approach. Pending recoveries indicated in the Annex XI Imp. Reg. should be included in the Final Payment Claim; however they will not be paid, but will constitute an outstanding commitment for the Commission. The Member States should inform the Commission on the outcome of the pending procedures. The Commission will calculate the final balance to be paid to Member State based on the expenditure declared in the final payment claim. If a pending recovery becomes a payment to a beneficiary, the expenditure concerned will be

Q	Topic	Reference to the Guidelines	Question	Answer
				reimbursed by the Commission within the limits of the results of the calculation at priority axis level. In case a pending recovery becomes an irrecoverable amount then the provisions of Article 20(2a) Imp. Reg. apply.
173	Final payment application - recoveries	5.1.3	Could you present detailed way of estimating of the quantification of the risk per year (table in Appendix VI to the CGL, column E), taking into account OP co-financed by ERDF/CF and OP co-financed by ESF?	As set out in the CGL, the quantification of risk in column "E" of the table in Annex VI of these guidelines results from: i. the application of the total projected error rate (as presented in the ACR) to the population; or ii. the application of a projected error rate or a flat rate (agreed with the Commission following its assessment) to the population. In the first case, and in the simplest scenario where no systemic or anomalous error, the error found in the sample is extrapolated/projected to the population, using the appropriate extrapolation formula, according to the sampling method used by the AA. The extrapolation formulas are explained in detail in the existing guidance on sampling (COCOF_08-0021-03_EN of 04.04.2013), together with practical examples. If only random errors exist in the sample audited by the AA, the quantification of the risk in column "E" corresponds to the amount resulting from that extrapolation. Where systemic or anomalous errors are detected in the sample (in addition to random errors), the quantification of the risk in column "E" corresponds to: projected random error (calculated as explained above) plus systemic or anomalous errors. The concepts of systemic or anomalous errors are explained in the same guidance on sampling and previously in the guidance on treatment of errors - COCOF_11-0041-01-EN of 07/12/2011. As explained in these guidance notes, where the anomalous errors have been corrected before the submission of the ACR (for the reference year where the anomalous error was detected), these errors are not counted for the quantification of the risk. In this case, the AA should not include the correction of that error in the calculation of the residual risk, to avoid understating this risk.
174	Final payment application - recoveries	5.1.3	Point 5.1.3 of the CGL: “At closure, the annual statement that needs to be sent via SFC2007 (in accordance with Annex XI Imp. Reg.) by 31.03.2017 and covering the year 2016 (…)”. Final statement of expenditure and interim payment application will be submitted to the Commission till 30.06.2016. According to the guidelines for CAs on reporting of amounts withdrawn, amounts recovered, amounts to be recovered and irrecoverable amounts, the declaration should	All issues with withdrawals and pending recoveries occurring after the last interim payment 30.06.2016 (between 01.07.2016 and 31.12.2016) will be taken into account in the final statement of expenditure and in the final payment application. By preparing the statement of expenditure and the final payment claim, the CA must deduct without unnecessary delay withdrawn and recovered amounts (Pages 6 and 7 of the COCOF note 10/0002/00). The last annual statement foreseen in Annexe XI Imp. Reg. to be submitted by 31.03.2017 has to include all withdrawals and recovered amounts in 2016 and until the final date of submission of the closure documents. During the year should be understood in that specific case until the final statement of expenditure

Q	Topic	Reference to the Guidelines	Question	Answer
			include withdrawn amounts and recovered amounts which decreased statements of expenditure submitted to the EC in particular year. Therefore in the statement of expenditure to be submitted till 30 June 2016 there will be included only amounts that decreased statements submitted to the EC in the period 1 January 2016 – 30 June 2016. What about the situation when the Member State will prepare statement of expenditure and final payment application at the beginning of January 2017 and will decrease them by the amounts recovered in the period 1 July 2016 – 31 December 2016? Is it acceptable to include in the statement of amounts submitted to the EC till 31 March 2017 also amounts recovered and withdrawn that decreased statement of expenditure and final payment application?	
175	Recoveries and irregularities	5.1.3	Section 5.1.3 of the CGL states that "for the amounts declared under Annex XI(3) as "irrecoverable amounts", where the Member State requests the Union's share to be borne by the general budget of the European Union, the Commission will carry out an appropriate examination of each case. In this respect it will either (a) inform the Member State in writing about its intention to open an enquiry in respect of that amount or (b) request that the Member State continue the recovery procedure or (c) accepts that the Union's share is borne by the general budget of the European Union". Could you please explain more precise mechanism of the action: who the documents must be sent to, the usual process of going (the most common stage of the process; give us an example how it should be done technically)? What would be the criteria when in case of unrecoverable amounts, the Commission at the request of the Member State adopts a decision which states that the EU share of the losses should be covered by the budget of the European Union,	The Commission has informed the Member States in the COCOF guidance note to CAs (COCOF 10/0002/02/EN of 17/03/2010) that it will analyse the basic data in the list of irrecoverable amounts provided by the Member States in table 3 of Annex XI Imp. Reg. as amended, and based on a risk assessment or on other indications such as that the loss has occurred as result of fault or negligence on the part of a Member State, it might proceed as follows: • the Commission might request further information, • it might open an enquiry, or • it might request the Member State to continue the recovery procedure. • it might accept to bear the EU-share of the loss. According to Article 20(2a) Imp. Reg., if the Commission has not contacted the Member State within one year from the submission of the statement, the amounts at stake will automatically be borne by the EU budget except when the irrecoverable amounts relate to suspected or established fraud. Furthermore, the Commission has informed the Member States that the simplification of the requirements on the reporting do not exempt Member States from their obligation, under Article 70 Gen. Reg., to take all the necessary measures in order to try to recover the amounts unduly paid. It is only when all the available means have been carried out till their end without result that the Member State will be able to request that the irrecoverable amounts are shared by the EU budget (see COCOF guidance note 10/0002/00). Whereas the Commission must have contacted the Member State within one year, the enquiry itself might extend over a one year period from the date of submission of the

Q	Topic	Reference to the Guidelines	Question	Answer
			and to proceed further the payment?	statement. The following is an indicative list of information which could be requested from the Member State in order to assess potential negligence and to obtain proof on adequacy of recovery measures: • a copy of the award decision; • the date of the last payment made to the final beneficiary or the final recipient; • a copy of the recovery order; • where applicable, a copy of the document attesting the final beneficiary's or final recipient's insolvency; • an outline description of the measures taken by the Member State, with indication of their dates, to recover the relevant amount. From a financial point of view, the following provisions would apply: • amounts included in the final payment claim • amount inserted in the final statement to be sent by the 31 March 2017 based on figures as at 31 December 2016 (Annex XI Imp. Reg.). The Commission will focus on the amounts being inserted after 31.12.2015. For any case (a, b and c in section 5.1.3 of the CGL), a commitment will remain open until the end of the examination process is closed.
176	Recoveries and irregularities	5.1.3	Please indicate criteria for differentiating irrecoverable from withdrawn amounts?	It is up to the Member State based on its own assessment to decide to retain or to keep the operation. For irrecoverable amount, the information that has to be filled in table 3 of Annex XI Imp. Reg. is of utmost importance and mainly column I (reason for irrecoverability) and J (recovery measures taken including date of recovery order). Based on the assessment made by the Member Sate and the information filled in columns I and J of Annex XI(3). The Commission has informed the Member States in the COCOF guidance note to CAs (COCOF 10/0002/02/EN of 17/03/2010) that it will analyse the basic data in the list of irrecoverable amounts provided by the Member States in table 3 of Annex XI Imp. Reg. as amended, and based on a risk assessment or on other indications such as that the loss has occurred as result of fault or negligence on the part of a Member State, it might proceed as follows: • the Commission might request further information, • it might open an enquiry, or • it might request the Member State to continue the recovery procedure.
177	Recoveries and irregularities	5.1.3	Point 5.1.3. – "Pending recoveries" – there is no obligation imposed on Member States to inform the Commission on pending recoveries.	At closure pending recoveries should be included in the final payment application but will not be paid by the Commission. They will constitute an open outstanding commitment. The Member State shall inform the Commission on the outcome of the pending recovery

Q	Topic	Reference to the Guidelines	Question	Answer
			However, it is possible that the Member State obtains the reimbursement (concerning pending recoveries) from the EC budget and on the other hand the same amount may be recovered from the beneficiary. In such a situation should the Member State change the status of such amounts into "recovered amounts" and include it in the statement of expenditure and in the application for interim payment?	procedures: a) Amounts that cannot be recovered could be considered, subject to the assessment of the Commission, as irrecoverable amounts and unless the Commission asks the Member State (1) for further information, (2) to pursue the recoveries or (3) open an enquiry, the corresponding amount will be paid on the commitment left open. b) Amounts that may be recovered will be logically excluded from the final statement and the corresponding open commitment will be decommitted. After the deadline for submission but before final payment claim is paid, as mentioned in point 4.3 of the CGL, the Member State can revise the statement of expenditure and the application for final payment claim by withdrawing expenditure and modifying Annex XI accordingly.
178	Recoveries and irregularities	5.1.3	According to point 5.1.3 of the CGL, the amounts indicated in Annex XI(2) as "pending recoveries" should be included in the final payment application, however they will not be paid, but will constitute an outstanding commitment for the Commission. The Member States should inform the Commission on the outcome of the pending procedures. Please indicate the form of information submitted to the EC. What about the situation when the amount has not been recovered – by which part (the EC or MS) should it be financed? Will it be possible to change the status of the amounts for "irrecoverable amounts" and request the Union's share to be borne by the general budget of the EU?	1) There is no legal format to inform the Commission on the outcome of pending recoveries. 2) Pending recoveries will not be paid until the outcome of the recovery procedure. 3) If the amount of a pending recovery is not recovered: • either, the Member State shall be responsible for reimbursing the amounts lost to the General Budget of the EU when it is established that the loss has been incurred as a result of fault or negligence on its part; • or, it might become an irrecoverable amount for which the Member State may request that the Union's share is to be borne by the general budget of the Union, following an appropriate examination of each case presented by the Member State. In this specific case, Member State has to demonstrate that all the necessary measures have been taken to try to recover the amount unduly paid (it is suggested to use the form of Annex XI(3) Imp. Reg.). If the Commission accepts to take the share of the loss, the reimbursement will be based on the co-financing rate of the priority axis similarly to the procedure applied during the programming period.
179	Recoveries and irregularities	5.1.3	What procedure should be applied by the MA as far as concerns the irrecoverable amounts in the case of closing down beneficiary's activity and negative court execution?	The Member State should report the irrecoverable amounts in Annex XI(3) Imp. Reg. However the Member State has to take all the necessary measures in order to try to recover the amounts unduly paid. It is only when all the available means have been carried out till their end without result that the Member State will be able to request that the irrecoverable amounts are shared by the EU budget (see COCOF guidance note 10/0002/00).
180	Recoveries and irregularities	5.1.3	For the particular case of employment aid financed where there are obligations for the beneficiary subsequent to the perception of the aid (maintenance personnel employed or continuing in active), how long should records and certificates be tracked, and therefore continue to withdraw expenses when breaches are detected?	See below the reply to question 228.
181	Recoveries and	5.1.3	According to point 8 of the CGL, in case of	Amounts declared as "withdrawn" are not retained in the programme. They cannot be

Q	Topic	Reference to the Guidelines	Question	Answer
	irregularities		irrecoverable amounts, the Commission might, on request of the Member State agree by decision that the Union share of the loss should be borne by the budget of the European Union and proceed to a further payment. Please indicate the examples of such situations. Is it possible for the EU budget to bear the loss of the irrecoverable amounts which were withdrawn and the funds were not dedicated to another operation? What should the procedure look like as far as the application on bearing irrecoverable expenditure submitted by the Member State to the EC?	reintroduced at a later stage and declared as "irrecoverable"(see COCOF note 10/0002/00/EN).
182	Final payment application - recoveries	5.1.3	According to the point 5.1.3 of the CGL, the amounts indicated in Annex XI(2) as "pending recoveries" should be included in the final payment application, however they will not be paid, but will constitute an outstanding commitment for the Commission. Please confirm if the below presented way of interpretation is correct: Final payment (indicated in the payment application) – 100 EUR Pending recoveries (amounts to be recovered) – 10 EUR The EC in the final balance takes into account the amounts to be recovered and pays to MS only 90 EUR (10 EUR will constitute an outstanding commitment). If, after the closure, MS recovers 10 EUR, there will be no financial flows between MS and the EC. But, if 10 EUR becomes “irrecoverable amount” and there will be no negligence of MS, will the EC pay 10 EUR to MS?	As specified in Article 70 Gen. Reg. and in COCOF note 10/0002/00, the Member State has to take all the necessary measures in order to try to recover the amounts unduly paid. It is only when all available means have been carried out till their end without result that the Member state will be able to request that the unrecoverable amounts are shared by the EU budget. As mentioned in point 5.1.3 of the CGL, in case a pending recovery becomes irrecoverable the MS may request the Union's share to be borne by the general budget of the EU. The Commission will do an assessment of the case and based on its conclusions will either: a) inform the Member state in writing about its intention to open an enquiry, or b) request that the MS continue the recovery procedure, or c) accept that the Union's share is borne by the general budget of the European Union. If the pending recovery becomes an irrecoverable amount at MS request and after assessment by the Commission it could be accepted that the Union's share is borne by the general budget of the European Union.
183	Recoveries and irregularities	5.1.3	How to treat irregular amounts linked to expenses made by a company that went bankrupt (non-fraudulent bankruptcy)	The Member State can chose to withdraw the irregular amounts from the declared expenditure, to keep them and list them as irregularities subject to legal proceedings if the Member State is still hoping for a recovery (the Commission will keep a commitment open) or to declare them as irrecoverable amounts.

Q	Topic	Reference to the Guidelines	Question	Answer
184	Recoveries and irregularities	5.1.3	The information that is to be filled in Annex XI(1). "Withdrawals and Recoveries deducted from statements of expenditure during the year 20.." should include only the information for year 2016 or the accumulated information from the beginning of the programming period (year 2007)? This question is raised based on the text in Annex VI of the CGL "Verify whether the CA has drawn up the **final** statement on withdrawn and recovered amounts, pending recoveries and irrecoverable accounts in line with Article 20(2) and Annex XI Imp. Reg.". It is not clear why the statement is called "final", as in the format of Annex XI it is called "annual" and how this fact further corresponds to the requirements set in the "Table for declared expenditure and sample audits", column F, respectively footnote 29.	The final year is also an annual year so the last statement covers information for year 2016 for withdrawals and recoveries (Annex XI(1) Imp. Reg.), and cumulative figures for pending recoveries and irrecoverable amounts (Annex XI(2) and (3) Imp. Reg.).
185	Recoveries and irregularities	5.1.3	What exactly information should be reconciled from Annex XI and the FIR, Annex XVIII Point. 2.1.5. "Assistance repaid or re-used"?	In the framework of the closure process, there is no reconciliation foreseen between these two documents. Part 2.1.5 of the template for annual and final report (Annex XVIII Imp. Reg.) refers to the use of assistance repaid or re-used following cancellation of assistance. Withdrawals are not always triggered by such a cancellation of assistance. In addition, there is no obligation for Member States to re-use all the amounts deducted from statements of expenditure (as a result of recoveries and other withdrawals), so the two types of information do not necessarily coincide. However, the MA should ensure an adequate audit trail in relation to the information to be disclosed in the FIR on the use made of assistance released following cancellation under Article 98(2) during the period of implementation of the operational programme. Such audit trail should allow the AA and EU auditors to trace back the amounts released to the financial corrections applied under Article 98, thus permitting the verification of whether the conditions set out in Article 98(3) (reuse of cancelled contributions for operations not subject to corrections) have been complied with.
186	Recoveries and irregularities	5.1.3	Until when the Member State should send the Annual Statement on Withdrawn and Recovered Amounts, Pending Recoveries and Irrecoverable Accounts (Annex XI) after the deadline for submission of the closure package – 31.03.2017?	Although the last Annual statement is to be sent by 31.03.2017, there is no deadline for the Member States to inform the Commission on the outcome of the pending procedures. It should be as soon as possible, after the open issue is solved. However, it should be stressed that it is in the Member State's interest to proceed as quickly as possible with all open issues.
187	Recoveries and irregularities	5.1.3	It will be necessary to address in more detail (based on any concrete example) the aspect of payment request of the final balance, taking into account that	Following the last modification of the Gen. Reg. (Reg. 1297/2013 of 11 December 2013), the top-up will be applied to countries still under budgetary assistance mechanism until the end of the programming period. Its application increases the reimbursement by the Commission

Q	Topic	Reference to the Guidelines	Question	Answer
			Romania has benefited from transitional support from the EC (top-up) and the existence of certain discrepancy between Union payment for a priority axis and the rate of co-financing from EU funds applied by the MA. Also, a more concrete explanation is needed in terms of recovery and irregularities, with special reference to the ongoing recovery that are included in the request for final payment.	of each interim application for payment and application for payment of the final balance up to 95 % of the expenditure declared. The Commission will stop reimbursing if the total of pre-financing and interim payments reaches 95% of the contribution of the Funds as foreseen in the financial plan of a programme. The increased contribution rate will reduce the national co-financing requirements during the period in which the member States comply with the conditions set out in Article 77(2) Gen. Reg. (top-up conditions). This reduced national co-financing will not be outbalanced by higher national co-financing after the MS ceased to benefit from the top-up. The Union contribution through interim payments and payment of the final balance shall furthermore not be higher than the public contribution and the maximum amount of assistance from the Funds for each priority axis as laid down in the decision of the Commission approving the OP. The application of the top-up will not provide any derogation to the provisions on irregularities and recoveries and their reporting requirements recalled in point 5.1.3 of the CGL. As for discrepancies between the EU co-financing rate at priority axis level and the one applied by the MA, they have to be closely monitored at national level.
188	Recoveries and irregularities	5.1.3	Will the Commission continue to apply, at closure, financial corrections to programmes whose error rate exceeds the 2% materiality threshold? a) Will it be the residual error rate which is used to make such assessments? b) Will the Commission seek to correct back to 0% or 2%? c) How will the correction be calculated, and will there be guidance covering this? In the event of the error rate exceeding 2%, is it reasonable to assume that the Commission will consider the amount of residual risk in column G of the table at the end of Annex XI of the guidance as the correction value?	The calculation of the balance to be paid/to be recovered has many other criteria. The residual error rate being one of them, the assessment by the Commission will be based on the information provided in the final control report, the AA opinion and on the Commission's own audit work. The AA opinion in the closure declaration should be drafted taking into account the Commission's guidance on treatment of errors. This means in particular that the AA may disclose an unqualified opinion if the residual risk rate at closure is below the materiality level (2% of the expenditure declared). A qualified opinion is deemed appropriate in case this risk rate is equal or **above 2%,** unless the Member State takes the necessary corrective measures foreseen in the mentioned guidance, on the basis of that risk rate, before submission of the closure declaration to the Commission.
189	Recoveries and Irregularities	5.1.3	Taking into account the case No C-276/14 concerning eligibility of VAT in infrastructure projects implemented by local government units (in relation to the question posed in the preliminary ruling of 12.10.2013 r. addressed by the Supreme Administrative Court to the Court of Justice of the EU), whether any potential corrections in the projects will be treated as a systemic irregularity, or	If irregularities are detected at closure, they should be corrected according to Article 98 Gen. Reg. Otherwise Article 99 might apply. If amounts with regard to irregularities are considered irrecoverable they should be declared under Annex XI(3) Imp. Reg. In case they are considered recoverable they should be declared under Annex XI(2) as pending recoveries. In case of suspected irregularities, the Member State should withdraw the relating expenditure from the statement of expenditure.

Q	Topic	Reference to the Guidelines	Question	Answer
			it will be possible to re-use these funds in the programme?	It is important to separate two issues: - 'normal' irregularities, which are being recovered (reported under Annex XI(2)), for which point 5.1.3. of the CGL applies, i.e. are to be included in the final payment application but the Commission will not pay for them. The question here is also how to treat the irregularities discovered after closure, where recoveries occur – i.e. should be somehow returned to the EU budget – see 5.1.3 last sentence. - irregularities subject to legal proceedings/administrative appeals, where the Member State could not declare until the national authorities take a final decision; here, point 8 applies – the Member State should inform the Commission about the amount which could not be declared and the Commission will keep a commitment open. The CA is obliged to ensure that only correct, regular and eligible expenditure is declared to the Commission. The AA should assess the validity of the application for payment of the final balance and the legality and regularity of the underlying transactions covered by the final statement of expenditure, which is supported by a final control report. In case irregularities are found before the submission of closure documents they need to be corrected in line with Article 98 Gen. Reg. and the closure documents should reflect on that.
190	Recoveries and irregularities (ETC programmes)	5.1.3	Would it be possible to clarify who bears the liability for error rates and how this is distributed among the programme partners so that the residual error rate is proportionate to the error rate incurred by projects in their territory?	The question is on the financial correction (not error rates). For the Commission, there is a single partner responsible for the management and implementation of the programme in accordance with the principle of sound financial management – the MA. If there are critical issues, responsibilities should be clarified ex-ante in the programme. If it has not been the case, it should be clarified among the participating Member States as soon as possible.
191	Recoveries and irregularities (ETC programmes)	5.1.3	Will the Commission still try to impose error rates on the ETC programmes as a whole? We would appreciate clarification of the legal basis, given that under the Regulations the Member States are responsible for first level checks.	Yes, error rates are to be provided on programme level as it is a joint programme. There might be an agreement among the Member States on how the corrections are applied, but the Commission - considering the programme as a single programme - will make financial correction on the programme. Article 60(b) Gen. Reg., and specificities defined in Articles 15 and 16 of the ERDF regulation are applicable. Article 16(1) of the ERDF Regulation provides that : In order to validate the expenditure, each Member State shall set up a control system making it possible to verify the delivery of the products and services co-financed, the soundness of the expenditure declared for operations or parts of operations implemented on its territory, and the compliance of such expenditure and of related operations, or parts of those operations, with Community rules and its national rules. For this purpose each Member State shall designate the controllers responsible for verifying the legality and regularity of the expenditure declared by each beneficiary participating in the operation. Member States may decide to designate a single controller for the whole programme area. Where the delivery of the products and services co-financed can be verified only in respect of

Q	Topic	Reference to the Guidelines	Question	Answer
				the entire operation, the verification shall be performed by the controller of the Member State where the lead beneficiary is located or by the MA.
192	FIR	5.2	Which would be a reasonable deadline to finalize the report so as to enable the correlation of the data with those of the final payment application?	There is no deadline suggested for the finalisation of final implementation report (FIR) The financial data included by the MA in the FIR should be in line with the elements contained in the final payment claim. The CA should submit its work to the AA at the latest on 31.12.2016 to allow sufficient time for the AA to carry out its work. The MA should check whether the changes to the final payment claim following discussions between the CA and the AA require a modification of the draft FIR. All consistency checks have to be carried out before the closure documents are submitted to the Commission.
193	FIR	5.2	Should an audit on the FIR be done/conducted by the AA? If yes, what are the content and timeline (of the above mentioned audit) to be followed in order to allow the AA to fulfil the deadline of 31.03.2017?	The information (notably financial data) inserted in the FIR should be consistent with the final control report, the closure declaration and the final statement of expenditure. While it is not foreseen in the applicable Regulations that the AA carries out an audit on the FIR, the AA will need to perform checks in order to confirm in the final control report, as established in Annex VIII (point 7, 2nd dash) of the Regulation (EC) No 1828/2006, the accuracy of the information disclosed in the FIR on irregularities reported pursuant to Article 70(1)(b) of Regulation (EC) No 1083/2006 and the respective corrective measures taken by the Member State. Moreover, as mentioned in the guidance on closure (section 5.2.1), the FIR "should present aggregated data and information for the whole of the implementing period". This means that the information on irregularities included in the FIR should also be presented in aggregate form (e.g. by priority axis) and should refer to the whole implementation period. The information disclosed on the FIR should correspond to the data presented in the annual statements (including the final statement by 31 March 2017) on withdrawn and recovered amounts, pending recoveries and irrecoverable amounts in line with Article 20(2) and Annex XI of the said Regulation. The AA's confirmation above-mentioned should be drawn from the AA's assurance on the annual statements under the said Article 20(2). Where discrepancies exist between these statements and the FIR, the AA should disclose them in the final control report. In addition, still under point 7 of the said Annex VIII, the AA shall confirm that the procedure for reporting and following up irregularities, including the treatment of systemic problems, has been carried out in accordance with regulatory requirements.
194	FIR	5.2	Similarly to what happened with the closure of the programming period 2000-06, should there be a separate chapter for the last year of implementation of the OP to be attached to the final execution report?	It is highly advisable to do so in case of unforeseen requests that may rise in the run-up to closure at regional/national/European level.

Q	Topic	Reference to the Guidelines	Question	Answer
195	FIR	5.2	Should FIR be supported by evaluation surveys?	There is no compulsory survey foreseen in the EU Regulations. However, in the template provided in Annex XVIII Imp. Reg., point 2.7 specifies that the MA or the monitoring committee has to mention monitoring and evaluation measures taken including difficulties encountered and steps to solve them.
196	FIR	5.2.2	How many times can the Member State make corrections to the FIR? Is there a final deadline for the approval of the report?	There is no possibility for a Member State to correct the FIR once it has been submitted. However, there is a possibility to provide additional necessary information within a deadline of 2 months in response to the comments made by the Commission within 5 months after the submission of the report. The objective is to have the final report accepted by the Commission within 1 year of the date of its receipt.
197	FIR	5.2.5	The final report "should contain (9) a brief assessment of fund performance in terms of its contribution to the achievements of the objectives of the programme and the priority concerned." Can this assessment be done by the MA or does it have to be done by an independent evaluator?	According to Article 60 Gen. Reg. it is the MA which has to assure the compliance of the information provided.
198	Reporting on FEIs	5.2.5	What is the Commission exactly expecting here in the case of equity, loans or guarantees? Would in case of equity a depreciation be conceivable from a risk perspective?	The scope of the final reporting is specified in section 5.2.5. Both, quantitative and qualitative information are requested. For the quantitative data, the table shown in Annex II needs to be followed. The historical book value (at the time of purchase of equity) is the reference value to be taken into account for the eligibility.
199	Divergences in Indicators	5.2.6	In view of that wording, we assume that the reporting obligation is applicable only by an underperformance of the targets by more than 25 %. A clear overperformance of the targets cancels therefore the obligation for reporting. Is this interpretation correct? Divergences in targets above 25 % should be explained and where applicable, actions undertaken should be described. Could you please confirm that there is no obligation for explanations, why financial corrections were waived?	A significant exceeding of the indicators/targets should also be explained (in accordance with the CGL). In this case the target is clearly achieved. There is no legal obligation for such explanations. Financial corrections will, of course, be excluded. The Member State should, however, reflect on this and ensure a better precision of future projections.
200	FIR: Non-achievement of indicators	5.2.6	We would like to ask for clarification of the mentioned divergence in indicators: are targets with a divergence lower than 25 % considered as met? During the assessment procedure will exceeding of set targets be considered as non-fulfilled?	The Member State should report in the FIR on the programme achievements as measured by physical and financial indicators, including a qualitative analysis on the progress achieved in relation to the targets set out initially. The Member State should provide information on indicators and only if, there is a significant divergence, an explanation and a justification as requested by the CGL should be provided. The targets are met when they are achieved, but specific information is needed if the

Q	Topic	Reference to the Guidelines	Question	Answer
				reported indicators divert significantly. A significant overachievement of indicators should also be accompanied by an explanation and a justification (according to the CGL), but the targets would be considered as achieved in this case.
201	FIR: Reporting on results	5.2.6	Would it be acceptable to present core indicator binding for priority axis A by indicating of the project implemented under priority axis B, taking into account that above mentioned core indicator is not binding for priority axis B?	Yes, the final report should refer in priority axis A to the achievements covered by priority axis B.
202	FIR:Non-achievement of indicators	5.2.6	- At OP level, are there consequences in case the indicators will fail to attain 75%? Are there any financial consequences? In the case of the absence of sufficient justification, will it lead to financial correction ? It yes, what is the legal basis for such correction ? - How to close a project in case the output indicators have not been met (e.g. number of activities implemented)? Is there any derogation permitted, if so – what is the scope of this derogation? - What are the requirements concerning the priority level result indicators? How should the Member State evaluate these indicators? According to point 5.2.6 of the Guidelines, in case of significant diversion between the targeted and reported indicators, the Member State should provide an explanation of 3 pages at maximum. Is our interpretation correct, that giving a detailed explanation and justification is enough and no financial correction will be imposed upon the given priority? - At project level, are there any specific corrections or requirements imposed by the EC in case projects objectives /indicators are not fulfil or are partially reached? Which should be the approach at the project level?	It is the Member State's responsibility to deal with projects which do not fully achieve the targets fixed ex-ante. Provisions in grant decisions on the consequences of the non-fulfilment of indicators and a close monitoring of projects during their implementation phase should allow Member States to prevent problems at closure. It is also possible to modify objectives and indicators during the implementation if necessary. At closure, in case the reported indicators in the final report appear to divert significantly (i.e. by more than 25%) from the targets set in the programme, the Member State should provide an explanation and a justification which would demonstrate that corrective actions have been taken. The reporting is only required with regard to the programme indicators. Unfinished projects may be compensated within a programme by overachievements. With regard to the closure of projects, output indicators are to be considered as a measuring tool for the completion of the project according to the grant agreement. Expenditures related to non- functioning projects are not considered as eligible at closure and should be completed in line with section 3.5 of the CGL
203	FIR: Non-achievement of indicators	5.2.6	Is the preparation of 3 pages justification thought as a summary or should it be prepared for each indicator separately?	At closure, in case the reported indicators in the final report appear to divert significantly from the targets set in the programme, then the Member State should prepare a short summary of 3 pages at maximum (for the programme as a whole).

Q	Topic	Reference to the Guidelines	Question	Answer
204	FIR: Non-achievement of indicators	5.2.6	To what extend will the explanation of a significant difference between planned and achieved targets allow a programme to avoid a financial correction?	Financial correction is not automatically applied and could be decided on a case by case basis whereby divergences would actually disclose cases referred to in Article 99 Gen. Reg. (irregularities, serious deficiencies of MCS).
205	FIR: Non-achievement of indicators	5.2.6	Till which date the aggregation of indicators in the OP should take place? Some projects will indicate the increase of indicators even during the sustainability period of the project. Because it is necessary to submit closure documents by 31 March 2017, may as an appropriate date be considered 31 December 2016, when the MA can order the beneficiary to achieve a certain level of indicators? According to the opinion of the EC, is this procedure convenient?	There is a requirement to report on the indicators in the FIR and this obligation should be fulfilled (Article 67(1) Gen. Reg.). The Member State should set up internal procedures, including control arrangements, ensuring that the closure documents are submitted within the timeframe established by the regulatory framework.
206	FIR: Reporting on results	5.2.6	If ETC programmes do not achieve their targets (25% variation of set objectives), will financial corrections be distributed between the Member States proportionate to the under-achievement of targets?	There is no automatism in applying the financial corrections if indicators are not achieved. The Member State should provide however an explanation and a justification, which would demonstrate that it adopted corrective actions.
207	Closure declaration	5.3	Can ERDF funds deducted from the eligible expenditure after financial corrections be re-programmed? Is there a need to modify the financial plan of the decision? If not possible to re-programme, is there a way to compensate the loss?	Amounts withdrawn following financial corrections by the Member State can be re-used until 31.12.2015 for the OP concerned. The contribution cancelled may not be re-used for the operation that was the subject of the correction, nor, where a financial correction is made for a systemic irregularity, for existing operations within the whole or part of the priority axis where the systemic irregularity occurred. (Article 98(2) and (3) Gen. Reg.). The financial plan attached to the decision is not affected by the financial corrections made by the Member State. Financial corrections after closure will be net corrections unless the Member State has the possibility to replace the related irregular expenditure on individual projects by supplementary expenditure declared under the priority axis at closure (overbooking). So yes overbooking could provide a buffer in case of individual financial correction. However, financial corrections notably linked to systemic irregularities imposed by a Commission decision under Article 100(5) Gen. Reg. after completion of the procedure laid down by Article 100(1) to 100(4) will involve net reduction in the Member State's indicative allocation of funding under Article 18(2) Gen. Reg. In this case, overbooking will not be able to compensate the financial loss.
208	Annex XI Imp. Reg.: reimbursement of recoveries after	5.3	How to treat recoveries after closure? For instance in case of an operation not respecting the durability period (Article 57 Gen. Reg.).	As established in the CGL, the Member States should inform the Commission on the outcome of the pending procedures after closure. This follow-up information is to be transmitted by the Member State by letter addressed to the competent Commission service, with the identification of programme and pending recoveries

Q	Topic	Reference to the Guidelines	Question	Answer
	closure			at stake. Additional information may be requested by the Commission in case of application of Article 20(2)(d) Imp. Reg. The reporting foreseen in Annex XI Imp. Reg. will cease to exist after 31.03.2017. Member States must nonetheless notify irregularities discovered after closure to the Commission. They must inform by letter to the relevant service about the amounts recovered in order for the Commission to calculate the EU share to be reimbursed to the EU budget. The Commission will issue a recovery order.
209	Annex XI of Implementation Regulation	5.3	What amounts should be declared in Annex XI Imp. Reg.? Are these amounts definitely lost or can they be re-used as foreseen under Article 98 Gen. Reg.?	Amounts recorded in Annex XI Imp. Reg. concern expenses already declared to the Commission that the Member State want to withdraw following the discovery of irregularities. As foreseen under Art 98(2) these amounts once withdrawn can be re-used by the Member State until 31.12.2015. The contribution cancelled may not be re-used for the operation that was the subject of the correction, nor, where a financial correction is made for a systemic irregularity, for existing operations within the whole or part of the priority axis where the systemic irregularity occurred. (Article 98(2) and (3) Gen. Reg.).
210	Annex XI of Implementation Regulation	5.3	Can the MA continue to report pending recoveries in the expenditure declaration until these amounts are effectively recovered?	Yes, amounts relating to pending recoveries can be maintained in the expenditure declaration. If amounts with regard to irregularities are considered irrecoverable they should be declared under Annex XI(3). In case they are considered recoverable they should be declared under Annex XI(2) as pending recoveries. A commitment will remain open and will be available in case of payment at the end of the recovering procedure (amount finally declared as irrecoverable and Commission agrees to bear the loss of the EU share).
211	Closure declaration: irrecoverable amounts	5.3	What are the conditions to declare amounts as irrecoverable?	Member States must take all necessary measures to recover amounts unduly paid. It is only after all recovery procedures have been attempted without success that Member States may consider these as irrecoverable and ask the Commission to bear the loss of the EU share. As explained in the COCOF note 10/0002/02 of 17 March 2010, the Commission will analyse all data attached to the Annex XI(3) on irrecoverable amounts. Following this: • the Commission might request further information, • it might open an enquiry, • it might request the Member State to continue the recovery procedure, • it might accept to bear the EU-share of the loss. According to Article 20(2a) Imp. Reg., if the Commission has not contacted the Member State within one year from the submission of the statement, the amounts at stake will automatically be borne by the EU budget except when the irrecoverable amounts relate to suspected or

Q	Topic	Reference to the Guidelines	Question	Answer
				established fraud. Whereas the Commission must have contacted the Member State within one year, the enquiry itself might extend over a one year period from the date of submission of the statement. The following is an indicative list of information which could be requested from the Member State in order to assess potential negligence and to obtain proof on adequacy of recovery measures: • a copy of the award decision; • the date of the last payment made to the final beneficiary or the final recipient; • a copy of the recovery order; • where applicable, a copy of the document attesting the final beneficiary's or final recipient's insolvency; • an outline description of the measures taken by the Member State, with indication of their dates, to recover the relevant amount. From a financial point of view, the following provisions would apply: • amounts included in the final payment claim • amount inserted in the final statement to be sent by the 31 March 2017 based on figures as at 31 December 2016 (Annex XI Imp. Reg.). The Commission will focus on the amounts being inserted after 31.12.2015. For any case (a, b and c in section 5.1.3 of the CGL), a commitment will remain open until the end of the examination process is closed.
212	Closure declaration: irrecoverable amounts	5.3	A Member State has chosen to deduct unduly paid expenditure from expenditure declaration. Can this Member State decide to change practice and declare these amounts as irrecoverable amounts?	It is not permitted to reintroduce irregular expenses withdrawn from one expenditure declaration unless the Member State can demonstrate that the expenses are finally legal and regular. If the case, the CA should keep all necessary supporting document proving that the expenses are indeed regular. This is nonetheless not possible after the final payment claim has been submitted. However, for unduly paid expenditure not yet withdrawn from expenditure declarations, a Member States can decide to keep them in. In case the recovery procedure fails, the Member States will then have the possibility to ask the Commission to bear the loss of the EU share.
213	Closure declaration	5.3	According to the CGL section 5.3, "the AA should report on the basis of the audit work carried out until 1 July 2015 and also on the audit work carried out between 1 July 2015 and 31 December 2016". However, in Annex VIII Imp. Reg., it is stipulated that chapter 3 of the model final control report (systems audits and audits of operations) covers audits not covered by earlier ACRs, i.e. the audit work carried out between 1 July 2015 and 31	The "table for declared expenditure and sample audits" (set out in Annex VI of the CGL) intends to be a tool to assist the AAs in calculating the residual risk at closure, covering the results of the audits of operations carried out since the beginning of the programming period. Concerning the remainder of the final control report, the closure guidance does not go beyond what is already in Annex VIII Gen. Reg. This means that, for the section 2 ("Changes in MCS and Audit Strategy") and the relevant parts of section 3 ("Summary of audits carried out (…)"), the final control report should only refer to the elements not covered by previous ACRs. This includes the last ACR, to be

Q	Topic	Reference to the Guidelines	Question	Answer
			December 2016. Does this mean that the audit work carried out before 1 July 2015 will only be mentioned in the attached table for declared expenditure and sample audits?	submitted in December 2015 which will cover the expenditure declared in 2014 and audit work carried out until end of June 2015. This is indeed already set out in the relevant footnotes included in the Annex VIII Imp. Reg. Of course, in section 4, the AA should disclose the follow-up of the audit activity carried out during the programming period, focusing on the recommendations or actions that may still be pending at closure and that affect the AA opinion. In any case and as established by Article 18(3) of the said Regulation, "the closure declaration referred to in Article 62(1)(e) Gen. Reg. shall be based on all the audit work carried out by, or under the responsibility of, the AA in accordance with the audit strategy".
214	Closure declaration	5.3	Is it mandatory for the AA to perform on-the-spot closure audits on all IBs or is it sufficient to perform such audits on a sample basis?	The AA should audit each IB at least once during the programming period, in the context of system audits. At closure, the AA should assess the risk concerning the existing IBs and perform follow-up audits where it considers necessary to seek assurance on the legality and regularity of the final statement of expenditure.
215	Closure declaration	5.3	ANNEX VIII Imp. Reg. (Model Final Control report). Would it be possible to explain more detailed what EC expects from these additional checks from AA (scope, timing, procedure, difference): 1. audits of the closure procedure of the MAs and CAs and IBs. 2. examination of the debtors' ledger kept pursuant to Article 61(f) Gen. Reg. 3. re-performance of controls on the accuracy of the amounts declared in relation to supporting documents. 4. examination of information relating to follow-up of audit findings and reported irregularities. 5. examination of additional work carried out by MAs and CAs to enable an unqualified opinion to be provided.	1. The AA should verify if the work done by the MA/IBs and CA in preparation for closure has adequately covered the points identified in the first two pages of Annex VI of the CGL. This work involves mainly desk-review of the procedures put in place by the MA/IBs and CA, analysis of whether those procedures are adequate and tests of controls (e.g. walk-through tests) of the work done by the MA/IBs/CA when applying those procedures. The selection of the files to be checked for the tests of controls can be risk based, taking into account the assurance obtained by the AA during implementation of the programmes. 2. The AA's examination of the debtors' ledger kept pursuant to Article 61(f) Gen. Reg. is covered by the verifications that the AA should carry out at closure on the reliability of the final statement on withdrawn and recovered amounts, pending recoveries and irrecoverable amounts. This task should correspond to a follow-up of the work of the AA carried out when verifying compliance with the key requirement 11 (satisfactory arrangements for keeping an account of amounts recoverable and for recovery of undue payments, in line with the applicable provisions). 3. The CGL do not refer to "re-performance of controls (…)". The question needs to be clarified by the MS. 4. The examination of information relating to follow-up of audit findings and reported irregularities is a basic work to be done by the AA at closure. It is unclear what the MS wishes to have as detailed explanations in this regards. 5. If there is additional work carried out by the MA and CA to enable an unqualified opinion, the AA obviously needs to verify the adequacy of such work, the depth of which depends from each case. It is unclear what the MS wishes to have as detailed explanations in this regards
216	Closure declaration: MCS	5.3	Is it possible to apply changes to the MCS beyond 31.12.2015 and, if yes, by when?	This has to be assessed on a case by case basis depending on the nature of the changes envisaged and on their possible impact. Except where serious deficiencies in the MCS have

Q	Topic	Reference to the Guidelines	Question	Answer
				failed to be dealt with by the MS until 31.12.2015, changes to the MCS after this date are not advisable as they may interfere negatively on the closure, namely on the work of the AA.
217	Closure declaration	5.3	Clarification is sought regarding the possibilities to facilitate the AA job in monitoring the operations, which seem to be more evident for the OPs with good levels of expenditure. Indeed, for OPs with slower spending rate, it is difficult to foresee if the expenditure will reach 95% by June 2016. Therefore, it is possible that a significant amount would be certified at closure, reducing significantly the time available for the AA to carry out checks on a population as close as possible to total expenditure declared cumulatively.	There is no direct link between the June 2016 deadline and the 95% threshold. What matters is the agreement to be reached between national/regional authorities on the deadline of submission of the last interim payment claim.
218	Closure declaration	5.3	When must the last regular payment request (not the final payment claim) be made available to the Commission?	It must be possible to take it into account in the final declaration, meaning it must be included by the AA in its closure declaration and in the final control report. A period for the submission of the last interim payment request before the final payment claim is however not provided in the Regulation.
219	Closure declaration	5.3	As the final statement of the CA must reflect the state of expenditure until 31.12.2016, is a two-stage examination necessary (e.g. (1) audit of the debtors' ledger as at 31.03.2016 and (2) verification of changes occurred between 31.03.2016 and 31.12.2016)?	The final application for payment must be submitted to the Commission by 31 March 2017, reflecting the expenditure eligible as at 31/12/2015 and certified as of 31/12/2017. Also by 31 March 2017, the CA needs to submit to the Commission the final statement in withdrawn and recovered amounts, pending recoveries and irrecoverable amounts in line with Article 20(2) and Annex XI of the Implementing Regulation. As set out in the CGL (cf. page 18, footnote 23), in order to ensure that the AA is able to cover the expenditure declared in 2016 and in view of the deadline of 31 March 2017 for the submission of the closure declaration, it is recommended that the CA submits the last interim payment claim by 30 June 2016, at the latest, thus ensuring that after this date no new expenditure will be declared to the Commission before the submission of the final payment application. It is important that the application for payment of the final balance and a statement of expenditure, is submitted to the AA well in advance (e.g. at least three months before the deadline of 31 March 2017) so this body has sufficient time to carry out its work for the closure declaration In this context, the CA should be able also to provide to the AA the final statement on withdrawals and recoveries by end of 2016, at the latest, to allow the AA to perform verifications on this statement (namely the ones specified in Annex VI of the CG) in time before 31 March 2017.
220	Closure declaration		Is it true that the final certificate of expenditure (and final declaration of expenditure), from the CA must	The final declaration of expenditure can include new expenditure after the last interim payment claim, provided the AA can conclude its work on time. See the reply above.

Q	Topic	Reference to the Guidelines	Question	Answer
			not contain any new positive expenditure? I.e. new positive expenditure should be declared for the last time in the last interim payment claim?	
221	Closure declaration	5.3	Is it correct that the final statement of certified expenditure and the related application for payment of the final balance represents a “saldo” which takes into account the expenditure declared until that date, the payments received as well as the corrections that have occurred since the last interim payment claim (withdrawn and recovered amounts)?	In the closure documents, all the eligible expenditure declared have to be included. Interim payments shall be made by the Commission until the maximum of 95 % of the contribution is reached. Any additional payments shall be made within the closure. The closure documents contain the adjusted amounts. In accordance with Annex XI Imp. Reg., outstanding recoveries and recovered amounts should be documented.
222	Closure declaration	5.3	In accordance with the CGL (see page 55, fourth indent), the amounts of public contribution actually paid to the beneficiaries should be examined in the final expenditure declaration in accordance with Articles 78(1) and 80 Gen. Reg. In what form should the control results be documented?	In each request for payment the total amount of public expenditure should be declared together with the total cost. The application for final payment makes no difference in this regard.
223	Closure declaration	5.3	Are the tasks of the CAs or bodies closed after 31.03.2017	As in previous programming periods, the Member State should ensure that the national authorities (i.e. the MA/IBs, CA and AA) responsible for the implementation of the programme and its closure continue their functions beyond 31.03.2017, at least three years following the closure of an operational programme as defined in Article 89(5) of the Gen. Reg. In case of an optimal programme (as described at the end of this Q&A) this may imply that those functions continue to be ensured at least until 31 March 2021 (or 2022, if expenditure paid for non-functioning projects are present in a final statement). Accordingly, the resources needed to achieve this should be included in the planning of the Member State. Where the functions of the bodies existing during the period 2007-2013 are transferred to new bodies in the period 2014-2020, the Member State authorities need to ensure an adequate hand-over of those functions (and staff, where applicable) and avoid any loss of information during that process.
224	Closure declaration	5.3.1	Chapter 5.3.1, paragraph 2, end reads: ‘...This means that the AA should report on the basis of the audit work carried out until 1 July 2015 and also on the audit work carried out between 1 July 2015 and 31 December 2016. The audits of operations carried out by the AA in accordance with Article 16 Imp. Reg. during this period will cover the expenditure declared in 2015 and 2016.”Could you please confirm that the in 2015 and 2016 declared expenditure should be understood as a unique population?	The sample is based on a 12-month period (01.01-31.12) in accordance with Article 16 Imp. Reg. and therefore one sample for 2015 and 2016 must be established.

Q	Topic	Reference to the Guidelines	Question	Answer
			Example: The CA submits in March 2015, October 2015 and June 2016 an interim payment claim. Will the sample be based on the total of the three payment requests or shall the AA (as for the years 2009-2014) base its sample on a 12-month period (01.01-31.12) and thus control a sample for 2015 and 2016? The latter would significantly increase the audit work.	
225	Closure declaration	5.3.2	Will there be a definitive timeline for closure documents to be delivered and expected to the Commission? Will the Commission set out how long it will take to review the closure package? Will closure be faster? Is there a date by which the Commission agrees to close all programmes and make final payments?	The Gen. Reg. has set a final date for submission of the closure documents (31.03.2017). The CGL indicate as a target to finalise any dialogue with the Member State on the closure documentation within one year of the date of reception of the closure package. As for the Commission's review, it is subject to the completeness and accuracy of the FIR + closure declaration + audits. The Commission's commitment to an earliest possible closure needs to meet a correct understanding of the process and preparedness on the Member State side.
226	Closure declaration	5.3.2	Could you please explain, what procedures could be applied by the Commission and actions taken by the Member State in case the closure declaration is not provided by the submission deadline to the Commission under the circumstances when the Commission or the European Court of Auditors audits are not closed?	The closure declaration should be based on all audit work carried out by, or under the responsibility of, the AA in accordance with the audit strategy. On-going audits by the ECA or the Commission can be mentioned in the closure documents but have no impact on the submission deadline: 31 March 2017.
227	Closure declaration	5.3.2	In cases when the closure declaration discloses irregularities which have not been tackled before the closure, the EC can decide to apply financial corrections - it means to automatically reduce the submitted final application for payment or, the final payment application should be already reduced before (as it is set now)?	According to Article 98 Gen. Reg., the Member State should act in the first place and make the financial corrections required. This means that it should correct irregularities before closure (i.e. withdraw irregular expenditure from the final payment claim). Otherwise the Commission may make financial corrections according to Articles 99-102 Gen. Reg. In case this happens, it results in a reduction of the balance to be paid.
228	Closure declaration/ Deadlines for financial corrections after closure	5.3.2	Are there any time limits for the Commission to carry out financial corrections after the 2007-13 OPs have closed? Can we have a date by which all ECA and DG Regio audits will be closed off to facilitate closure? Does the EC have a list of audits going forward to 2017?	There are no time limits in the regulatory provisions restricting the possibility to carry out financial corrections. For instance the Commission, the European Court of Auditors or OLAF could launch an investigation and propose financial corrections in principle any time. The availability of the supporting documents is limited to three years after the closure (as specified in Article 89(5)), but it does not prevent any institution to carry out an audit. In fact, Article 90 Gen. Reg. on availability of documents, states that "the MA shall ensure that all the supporting documents regarding expenditure and audits on the OP concerned are kept available for the Commission and the European Court of Auditors for a period of three years following the closure of an OP". This period shall be interrupted either in the case of legal

Q	Topic	Reference to the Guidelines	Question	Answer
				proceedings or at the duly motivated request of the Commission. The Commission cannot give any final date as the timing and scope of its audit work is based on a risk assessment and the implementation of an audit strategy. Financial corrections after closure will be net corrections unless the Member State has the possibility to replace the related irregular expenditure on individual projects by supplementary expenditure declared under the priority axis at closure (overbooking). However, financial corrections notably linked to systemic irregularities imposed by a Commission decision under Article 100 (5) Gen. Reg. after completion of the procedure laid down by Article 100(1) to 100(4) will involve net reduction in the Member State's indicative allocation of funding under Article 18 (2) Gen. Reg.
TECHNICAL ASSISTANCE – DECOMMITMENTS – OPERATIONS AND PAYMENTS SUSPENDED				
229	TA	6	In the text there is mentioned the possibility of financing the preparation of the programming period 2014-20 from the TA of programmes in the 2007 - 2013. What the word "preparatory activities" exactly means? What activities and in what amount (range) might be financed from this programme?	At first, it should be underlined that the primary purpose of the TA of the programming period 2007-13 is to co-finance the management and the implementation of the 2007-13 OPs. The TA of programmes in the programming period 2007-13 is governed by Article 46 Gen. Reg. According to Article 46(1) Gen. Reg. it is possible to finance preparatory activities for the 2014-2020 period (e.g. elaboration of programmes, drafting of report on ex-ante conditionalities, elaboration of studies, establishment of new MA, or organisation of the new institutional setup). These preparatory activities should be directly relevant to the preparation of the new period, materially eligible under the 2007-13 EU and national eligibility rules and should also fulfil the selection criteria of the programme concerned. In addition, there should be a clear demonstrable link between the proposed activities and the preparations within the Member State for the 2014-2020 period.
230	TA	6	How to ensure monitoring of impact and preparation of documents for closure when the TA for the OP 2007 – 2013 is eligible only up to 31.12.2015? Are the expenditures related to closure of PO 2007 – 2013 eligible under TA for 2014 – 2020? What if the given authority will no longer be an implementing authority under ESIF? Monitoring of impact and preparation of documents for closure would need to be covered from the state budget? TA of the programming period 2007-13 can be used also for the preparatory actions for the programming period 2014-20. There are, therefore, cases of TA "continuing" into the programming period 2014-20 or overlapping with the programming period 2014-20 – e.g. the Website www.eu-skladi.si, due to its recognisability, continues also in the period 2014-20	The legal framework applicable to the programming period 2007-13 imposes obligations on the Member States to carry out certain tasks related to the closure of the programmes after the final date of eligibility. Some TA costs, such as certain audit costs, costs related to preparation of the FIRs, and the archiving of supporting documents, may incur after the final eligibility date. For TA activities as for any other expenditure of the programming period 2007-413, the final date for eligibility of expenditure is 31.12.2015. If there are such activities after that date they should be covered by the national resources or they could be co-financed by the ESIF. In fact, the Article 59 CPR states that at the initiative of a Member State, TA can support actions for preparation, management, monitoring, evaluation, information and communication, networking, complaint resolution, and control and audit. These actions may concern preceding and subsequent programming periods. The provision of Article 59 sets out an explicit definition regarding the periods to which TA expenditure co-financed from the 2014-2020 financial envelope relates. Nevertheless, it should be reiterated that an audit trail must be set up so as to avoid any risk of double co-financing for the same TA activities under the programming periods 2007-13

Q	Topic	Reference to the Guidelines	Question	Answer
			– part of it relates to programming period 2007-13 and part of it relates already to the programming period 2014-20. How are we to “close” such activities which, indeed, continue into the programming period 2014-20? What is the case, in such instances, with the parallel financing in the interim period (2014-2015) from both TAs of both programming periods (namely, part from TA 1007-2013 and part from TA 2014-2020) of one activity (e.g. Website, contract of employment)?	and 2014-20. TA costs for the benefit of the programming period 2007-13 but co-financed from the 2014-20 allocations would fall under the TA capping laid down in the CPR. Any costs incurred before the starting date of eligibility of the 2014-2020 programmes would not be eligible for EU co-financing under these programmes. If there is no continuation of the 2007-13 OPs and there is no successive programme, the costs incurred after the final date of eligibility of these programmes would have to be covered from national sources or they could be co-financed by the ESIF (by the programme which is considered to be a 'successor' of the previous programme(s)). Finally, the Fund-specific rules may add or exclude actions which may be financed by the TA of each ESIF.
231	TA	6	A contract of TA finishes on 31.12.2015 and it is expected that invoices for activities performed end of 2015 will be sent in January 2016. Is it possible for the administration to pay in advance based on a financial guarantee to be released once all the services have been provided?	Expenditures have to be incurred and paid before 31.12.2015. Invoices paid after that date are not eligible. Services provided after that date are not eligible.
232	TA	6	What type of TA activities can be considered as "programme closure activities" eligible under 2014-2020 programmes?	There should be a clear demonstrable link between closure activities and proposed activities in the programme for the 2014-2020 period, notably the need to close activities on which the forthcoming programme is to be developed.
233	Decommitment	7	Do you confirm that the automatic decommitment of the amounts relative to the final year (2015), referring to the data reported under a request for final payment transfer, should be verified by 31/03/2017?	Except for the Member States that have been granted an extension of n+3 through the amending Reg. adopted end of 2013 (Romania and Slovakia) which will have to justify by 31.12.2015 the amounts commited in 2012, Article 93(3) Gen. Reg. requires a decommitment of the 2013 commitments still open on the 31.12.2015 only at closure. Where applicable, amounts to be decommitted would be considered as from the submission of the closure documents. In addition, provisions laid down in section 4.2 of the CGL indicate that "the Commission will automatically decommit that part of commitment for which the Commission has not received any of the closure documents (…) by 31.03.2017".
234	Decommitment	7.2	Regarding to the sentence "decommitted appropriations may be made available again in the event of manifest error attributable solely to the Commission," we would like to clarify what are the possibilities of recovery of the decommitted appropriations by the EC and how should they be restored?	Article 178(2) of the Regulation (EC) 966/2012 ("the Financial Regulation"), refers to situations of a manifest error attributable solely to the Commission ("including clerical or technical errors"). Under this Article, commitment appropriations corresponding to decommitment carried out following errors attributed to the Commission are made available again.
235	Decommitment	7.1	Can you confirm that the delays in the finalisation of projects caused by floodings fall within the scope of the derogation mentioned in the CGL in sections 7.1	There is no automaticity in the application of the derogation to the decommitment in case of force majeure. The programme should demonstrate in the final report the impact of the floods on the non-completion of the projects. Worries that larger flooding protection projects that

Q	Topic	Reference to the Guidelines	Question	Answer
			and 3.5?	cannot be finalised by March 2017 and will therefore not be taken into account in the final report would be ineligible remains unfounded, as long as the specific conditions of section 3.5 of the Guidelines are fulfilled. In addition, for both the automatic decommitment and for the non-completion of the projects reasons of force majeure may be invoked. This should however happen based on valid European case-law for the application of exceptions on grounds of force majeure events. 'Force majeure' is qualified as a factor of abnormal and unforeseeable circumstances, outside the control of the person who wishes to invoke force majeure, which despite the exercise of all due care, could not be avoided.
236	Operation suspended	8	Point 8 of the CGL: the project was indicated by MA as suspended due to legal proceedings and the administrative court issued the verdict opposite to MA's position. What will be the attitude of the EC in the context of reimbursement for the project? Will it be in compliance with the verdict of national court – even in the situation of preliminary quite different position of the MA from the court's verdict? What about the situation when the legal proceeding considers AA outcomes and the court will be of the different opinion from the AA position? What about the reimbursement for the beneficiary after closure of the OP (when the court's verdict will be in line with beneficiary's position)?	Point 8 of the CGL specifies that Member State should keep the Commission informed of the outcome of the legal proceedings or administrative appeal. When competent authorities deliver a final decision, either further payment will be made or the recovery of amounts already paid will be carried out or payments already made will be confirmed. It is not the role of the Commission to challenge national court decision. In case the court verdict is in favour of the beneficiary, the corresponding payment based on eligible expenditure will be paid by the Commission or payment already made will be confirmed.
237	Operation suspended	8	According to point 8 of the CGL, for each operation that is the subject of a legal proceedings or an administrative appeal having suspensory effects, the Member State must decide, before the deadline for submission of the closure documents for the programme, whether the operation should be (wholly or partly): – withdrawn from the programme and/or replaced by another eligible operation before the deadline; – retained in the programme. Is it possible to replace only part of the expenditure of the project – taking into account that another part of expenditure was approved and certified to the EC? If yes, please indicate examples of such situation.	It is advisable to avoid such situation as it will need lengthy clarifications between Commission and the Member State. For these operations, the Commission will assess on a case by case basis depending on nature, type of operation and expenditure declared… It is possible to replace expenditure but it should be underlined that replacement should take place before the deadline of submission of closure document (31.03.2017). It is up to the Member State to decide to retain or to withdraw operation from the programme. In this border line case the Member State should consider either to replace the full operation by another one or to retain it in full as a project under legal proceedings waiting for the outcome.
238	Operation	8	What procedure should be applied for the necessity of reimbursement for the beneficiary due to court's	When the competent authorities deliver a final decision in favour of the beneficiary before 31/03/2017, it should be possible for CAs to introduce such expenditure into a subsequent

Q	Topic	Reference to the Guidelines	Question	Answer
	suspended		verdict, especially when the verdict is opposite to the outcomes of MA, AA, ECA? At what stage of closure will it be possible to include such reimbursements into the statement of expenditure? From which sources should be these reimbursements made?	statement of expenditure before the deadline for closure.If at closure an operation is still suspended due to legal or administrative proceedings, it is up to the MA to decide whether this operation should be withdrawn (and replaced by another one (overbooking) or retained in the programme. If the latter, the operation should be included in Annex VII of the CGL. The amounts declared in Annex VII will allow the Commission to keep a commitment open for possible future payments.In case the court verdict is in favour of the beneficiary the corresponding payment based on eligible expenditure will be paid by the Commission or payment already made will be confirmed.
239	Operation suspended	8	Point 8 of the CGL: 1. For those retained operations (Article 95 Gen. Reg.), the Member State should inform the Commission of the amount that could not be declared in the final statement of expenditure, so as to keep a commitment open. It may be understood that when the operation is suspended, the expenditure non-declared (non-certified) to the EC should be included in the Annex VII summary table of suspended projects (to be attached to the final report). However the title of one of the column is CERTIFIED EXPENDITURE PAID. 2. If the data in the above mentioned annex should consider only certified expenditure for the suspended projects, it means that statement of expenditure and an application for payment of final balance should be decreased by the certified expenditure within suspended projects? Is it proper way of understanding of the amount that could not be declared in the final statement of expenditure? 3. If the data in the above mentioned annex should consider only certified expenditure for the suspended projects, what about expenditure that was not certified to the EC (e.g. were incurred after the period of suspension had started)?	1. In the modified Annex VII of the CGL "Certified expenditure paid" is replaced by "Eligible expenditure paid by the beneficiary". 2. See reply point above. All expenditure related to these suspended projects is not certified it is the reason why these expenditure will not be declared in the final statement of expenditure but well in Annex VII. 3. See reply point above. The expenditure that will be mentioned in annex VII has to correspond to expenditure paid by the beneficiary before 31/12/2015 and relate to a delivered service or work.
240	Operation suspended due to legal or administrative	8	According the Article 95 Gen. Reg. the amounts, that the CA has not been able to declare because of operations suspended due to legal proceedings or an administrative appeal having suspensory effect,	The Member State should demonstrate that following conditions are met: a) to prove that there is a legal proceeding/administrative appeal with regard to a specific operation; b) to demonstrate that the legal proceeding or the administrative appeal has suspensory

Q	Topic	Reference to the Guidelines	Question	Answer
	proceedings		will be not included into an automatic decommitment procedure. Please specify what documentation should be provided concerning the legal proceedings and administrative appeal having suspensory effect in order to provide sufficient information on the existence of such reasons.	effect; c) administrative appeals/legal proceedings have an impact on the ability of the national authorities to declare expenditure to the Commission d) to justify the amounts, which will reduce the amounts potentially concerned by automatic decommitment and make an assessment of how much has not been able to be declared. In addition to the justification, the table for suspended projects in Annex VII of the CGL should be filled in. It is up to the Member State to provide any appropriate documentation with regard to the proof of the existence of legal or administrative proceedings as well as the existence of suspensory effect, according to national administrative or judicial systems. If on the other hand no suspensory effect is granted by the court, the project is not benefiting from the application of Article 95 and it may be considered as non-functioning project if it is not competed and in use. If it is completed and in use all expenditures paid to the contractor before the eligibility end date of 31.12.2015 are eligible. If the final payment has been transferred to the contractor after that date they cannot be declared as eligible expenditure at closure.
241	Operations suspended due to legal or administrative proceedings / Decommitments	8 / 7.1	What is meant by "operations that were suspended due to legal proceedings or administrative appeals having suspensory effect". How to prove such circumstances? How exactly the Member state can retain the operations in the programme (which we understand should mean to keep the already certified expenditure for such operations in the final statement of expenditure) and at the same time such amounts could not be declared in the final statement of expenditure (which we understand should mean they have to be deducted from the final statement of expenditure)? Will the suspended projects be included into the eligible expenditures in case when the beneficiary will be successful at Court? If beneficiaries, based on the decision of the Court would be interested in continuing the project, can we pay them the costs which will occur after 31.12.2015?	The rules applicable to the closure of operations suspended due to judicial or administrative proceedings are set out in chapter 8 of the CGL and have to be distinguished from those for non-functioning projects (section 3.5 of the CGL). In particular, operations suspended due to judicial or administrative proceedings do not have to be completed no later than two years after the deadline for submission of the final report and the additional time allowed to finish such projects needs to be assessed on a case by case basis, depending on the consequences of the suspension on them (whether they delay implementation and/or payments) and the duration of the suspension. Given the uncertainty about the results of the legal or administrative proceedings and considering the amounts at stake, it is the Member State's responsibility to decide, when drawing up the closure documents, whether the corresponding operations should be withdrawn (and replaced by another operation, possibly from "overbooking") or retained in the programme. If the latter option is selected by the Member State, then closure documents should refer to these operations and the Commission should be informed on the potential maximum amount that could not be declared in the final statement of expenditure, so as to keep a commitment open until the responsible national authorities deliver a final decision. The list of suspended projects should be provided, see template in Annex VII of the CGL. Following the decision, either further payments will be made by the Commission or funds already paid will be recovered. Pursuant to Article 105(3) Gen. Reg., the amounts related to the operations which have been retained in the programme will be disregarded in calculating the amount to be decommitted at closure and the corresponding commitments will be kept open as above mentioned.

Q	Topic	Reference to the Guidelines	Question	Answer
				As a general rule, any cost incurred by a beneficiary after 31.12.2015 would not be eligible. Relevant documentation should be available in the control system in case of inspection. When proceedings have been launched for the recovery of expenditures declared, the related amounts shall be declared under pending recoveries. They shall not be declared under operations suspended for legal or administrative reasons since these cases shall cover only amounts that the Member State was not able to declare. The Member State should keep the Commission informed of the outcome of the legal proceedings or administrative appeal. When competent authorities deliver a final decision, either further payment will be made or the recovery of amounts already paid will be carried out or payments already made will be confirmed. In principle, there is no time limit set up by the Regulations or CGL for the closure of suspended operations. The Commission will keep commitment open until it receives information from the Member State. However the Member State should make an assessment whether the period of suspension would be proportional to the amount at stake. The Commission could only advice to consider it if the period is not excessive, namely because the suspended operations would block the programme closure and prolong the period of availability of documents and would not allow to pay the final balance. If expenditure relates to legal and administrative proceedings on-going on 31.03.2017 and these expenditure are included in the final statement of expenditure sent by the CA by 31.03.2017 and the outcome of an administrative or legal proceeding results in expenditure declared to be ineligible, the statement of expenditure should be revised downwards after 31 March 2017 (see point 4.3 of the CGL).
242	Operations suspended due to legal or administrative proceedings	8	Whether the above requirement relates only to the cases included in Article 95 Gen. Reg., and whether only such cases should be included on Annex VII to the Guidelines? Does it mean then that cases that are out of the scope of Article 95 Gen. Reg. could not be retained in the programme?	Yes, chapter 8 concerns all operations interrupted for legal proceedings and administrative appeals as defined in Article 95 and it does not apply to the operation outside the scope of Article 95 Gen. Reg.
243	Operation suspended due to legal or administrative proceedings	8	Considering the need to inform the Commission about either suspended or kept transactions, is it necessary to submit a specific notification or notice to OLAF or is it sufficient to fill in the form in Annex VII of the CGL. Concerning the parts of the programme which have been withdrawn from the programme, is it necessary to report them?	As for the closure of operations suspended due to legal or administrative proceedings, the specific requirement linked to annex VII of the CGL does not take precedence over the usual notification to OLAF if beyond the threshold. The discussions between the Commission and the national authorities will take place on the basis of the information submitted under annex VII of the CGL. As for amounts withdrawn, they will be reported in the relevant annual statement on withdrawn and recovered amounts, pending recoveries and irrecoverable amounts (Annex XI Imp. Reg.). The latest of these annual statements is to be sent by 31.03.2017 together with the closure documents.
244	Operation	8	Asking confirmation of the following: With reference	In case of a bankruptcy which is non-fraudulent, thus, not subject to suspected or established

Q	Topic	Reference to the Guidelines	Question	Answer
	suspended due to legal or administrative proceedings		to Article 57(5) Gen. Reg., if an operation included in an intermediary payment is linked to a beneficiary who goes bankrupt before the end of the three years period after completion of the project, it is correct to keep the operation in the list of eligible projects and it is not necessary for the MA to start a recovery procedure.	fraud, the requirements on durability of operations established in Article 57 (1-4) do not apply and a substantial modification will not have the consequences of financial corrections. For all cases of cessation of the productive activity due to non fraudulent/simple bankruptcies declared as from 1 January 2007, as per Article 57(5) of Gen. Reg. (as amended by Regulation No 539/2010), the Member State is exempted to investigate the irregularity concerned and to make adequate financial corrections and the Member State and the Commission will not have to take the necessary measures in order to recover the amounts unduly paid. This means that the co-financing should not be withdrawn in case of non-fraudulent (simple) bankruptcy and therefore the expenses resulting from an activity which has gone into bankruptcy can be kept and will be on the general budget of the European Union. The national authorities should keep an adequate audit trail on the expenditure declared and affected by cessation of the productive activity due to non fraudulent/simple bankruptcies, together with appropriate evidence proving that the conclusion that indeed there was a non-fraudulent bankruptcy. The proofs to be given as an evidence of non-fraudulent/simple bankruptcy depend on the regulation of each Member State. These cases are not to be reported at closure as operations suspended due to legal or administrative proceedings. However, they should be reported in the FIR. However, the Member State needs to prove that it cannot recover the amounts paid for an operation that has not been achieved due to the bankruptcy. For irrecoverable amounts the Member State may request the Union's share to be borne by the General Budget of the European Union.
245	Operation suspended due to legal or administrative proceedings: Interests	8	What to do with the legal interests received by the MA on recovered amounts? How should they be accounted for? In the past the CDRR/05/0012/01/EN document attached to the CGL for 2000-2006 made it clear that these interests could be reused by the administration in line with the objectives of the OP. COCOF 10-0002-00 only refers to default interest but does not mention legal interests.	Unless not specified in national rules notably provisions of agreements concluded between the Member State or the MA and IBs interest shall be regarded in analogy to Article 83 as a resource for the Member State in form of a national public contribution and shall be used for operations decided by the MA within the given programme.
246	Operation suspended due to legal or administrative proceedings	8	What does it mean expenditure: - "withdrawn from the programme and/or replaced by another eligible operation before the deadline"; - "retained in the programme"?	The Member State should decide, before the deadline for submission of the closure documents for the programme, whether the operations should be withdrawn from the programme or retained in the programme. Expenditure withdrawn means expenditure deducted from the expenditure declared to the Commission for co-financing. But expenditure from another eligible operation can be declared instead. Expenditure retained means expenditure not withdrawn from expenditure declared to the Commission for co-financing

Q	Topic	Reference to the Guidelines	Question	Answer
247	Calculation of the final contribution	10	Overruns of the level of 10% due to exchange-rate fluctuations.	The final payment application will be in €. No increase of the amounts declared in the final payment application due to currency fluctuation will be possible after submission of the closure documents.
248	Calculation of the final contribution	10	Practical aspects of 10% flexibility in the context of: a) certification of expenditure over 100% of allocation for the priority axis? b) SFC 2007-2013 c) reimbursement of funds made by the EC (over 100% of allocation for the priority axis).	a) It is up to Member States to decide whether they "resort overbooking". It is possible and advisable to include all eligible expenditure beyond financial plan because this could provide a buffer in case of individual financial correction . In any case, the expenditure corresponding to overbooking has to be covered by sufficient national funding sources. b) Please note in this context that financial corrections after closure will be net corrections unless the Member State has the possibility to replace the related irregular expenditure on individual projects by supplementary expenditure declared under the priority axis at closure (overbooking). However, financial corrections notably linked to systemic irregularities at the initiative of the MS or imposed by a Commission decision under Article 100 (5) Gen. Reg. after completion of the procedure laid down by Article 100(1) to 100(4) will involve net reduction in the Member State's indicative allocation of funding under Article 18 (2) Gen. Reg. c) The declaration will not be blocked by the system when sending cost claim above 100%. The Commission may reimburse a priority axis at a maximum of 110% of the allocation for the axis compensated by the under execution of another priority axis.
249	Calculation of the final contribution	10	Detailed procedure of the last amendment of the OP in the eligibility period (in the context of 10% flexibility as well).	Point 2.2 of the Closures Guidelines indicates that request for amendment of the financial plan within a given OP which results in a transfer of fund between priority axis can be submitted until the final date of eligibility of expenditure (31.12.2015). In order to allow the Commission to prepare and approve the amending decision in due time, it is recommended to submit your request by 30 September 2015. The complementary possibility to adjust the financial plan is subject to the justification foreseen in article 33(1)(b) or (d) Gen. Reg. The 10% flexibility will be applicable only at closure and its application requires no modification of the OP.
250	Calculation of the final contribution	10	Does the EC consider the application of 10% flexibility rule for the MPs? It would enable to increase by max. 10% co-financing from the ERDF over the level indicated in the EC decision for MP. The increased co-financing will be utilized only at the final period of implementation of the project and devoted to additional, fairly justified physical scope of the project without the necessity of the amendment of the EC decision for project (taking into account time-consuming procedures of the decision amendment for MP).	The 10% flexibility applies at priority axis level, not at project level. The amount of support included in a decision on a MP can only be increased through a modification of the decision and must be justified (for instance increase in the scope of the MP). It is therefore recommended that any request for amendement of a MP decision be sent to the Commission at the latest in September 2015.
251	Co-financing	Annex	What amounts are expected in the summary tables	All amounts that were declared and are to be paid should be declared at closure (cf. Annex V

Q	Topic	Reference to the Guidelines	Question	Answer
		V, VII	of Annex V (non-functioning projects) and VII (suspended projects) of the CGL? In what form must the result of the control be documented? Should cases of simple bankruptcies be reported in the Annex VII?	of the CGL). The amounts are paid, but may be recovered if the projects cannot be finished. Simple bankruptcies are not to be reported at closure as operations suspended due to legal or administrative proceedings. However, they should be reported in the FIR. The related amounts represent irrecoverable amounts for which the part of EU co-financing shall be borne by the general budget of the European Union. This is laid down in Article 28 Imp. Reg. The amounts to be incorporated in Annex VII are the ones for which no payment occurs but for which the Commission keeps a commitment open.
252	Preparation for the final control report and closure declaration	Annex VI, part 11	What is the position and recommendations of the EC in cases when the OP and MA will not exist after the end of the programming period 2007-13 anymore, particularly in relation to the follow-up activities to closure (e.g. in the field of irregularities, etc.)?	It is up to the Member State to ensure that the closure process is completed. In case there is no continuation of the 2007-13 OP, the Member State should designate the entities that would fulfil all relevant tasks required and would be responsible for any follow-up activities which may occur.
253	Submission of Closure Documents	Annex VI	With regard to the activities that the CA should carry out in preparation for closure, what is meant by must "carry out direct verifications"? Do you consider that on the spot checks can be carried out?	Annex VI of the CGL refers that the CA, in preparation for closure, should request further information and/or undertake its own verifications where necessary. These verifications do not necessarily entail on-the-spot checks, but the CA can perform these checks it it sees the need to be able to certify the expenditure. In order to ensure proportional control arrangements and avoid an excessive administrative burden for the beneficiaries (due to repeated audits and controls), the CA should first use the information at its disposal from the MA's checks and the AA's audits.
254	Submission of closure documents	Annex VI	Do we have to prepare a full list of completed projects and if so what information is required? Can you provide a template for this? In Annex VI, MAs and IBs are required to analyse final claims from all beneficiaries. This will mean that the AA will need a list in order to sample the work done in this regard.	As rightly said, in practice, this list would be needed in any case for the AAs to perform their checks before the closure documents are sent. Such a list could also be requested by auditors from the Commission or the European Court of Auditors. Nevertheless, there is no obligation to provide a full list of completed projects (with the exception of completed MPs) within the closure documents to be sent to the Commission. Therefore there is no need for a specific template, again with the exception of Annex I of the CGL. The Member States can take inspiration from the format required by Article 7(d) and the list communicated "on request to the Commission" of the Annex III Imp. Reg. The Annex VI provides guidance on what should be done when preparing for closure and an analysis of the final expenditure claims from all beneficiaries is one of the preparation steps needed for the final payment claim.
255	Error rate	Annex VI	In case the error rate is equal or above 2% the AA will issue a qualified opinion. Which will be the effect of this "qualified opinion" in the context of closure	The AA opinion in the closure declaration should be drafted taking into account the Commission's guidance on treatment of errors. This means in particular that the AA may disclose an unqualified opinion if the residual risk rate at closure is below the materiality level

Q	Topic	Reference to the Guidelines	Question	Answer
			declaration?	(2% of the expenditure declared). A qualified opinion is deemed appropriate in case this risk rate is equal or **above 2%,** unless the Member State takes the necessary corrective measures foreseen in the mentioned guidance, on the basis of that risk rate, before submission of the closure declaration to the Commission. If the residual risk rate at closure is equal or above 2%, the management and control system has been deficient and failed to provide adequate assurance that the expenditure declared to the Commission is legal and regular. Therefore, in this situation, the Commission will apply a net financial correction based on this residual error rate in accordance with the Commission decision C(2011) 7321 final on "approval of guidelines on the principles, criteria and indicative scales to be applied in respect of financial corrections made by the Commission under Articles 99 and 100 of Council regulation (EC) N° 1083/ 2006".
256	Residual error rate	Annex VI	Is it possible to over self-correct at closure? If so what will happen? a) If our understanding of the COCOF guidance is correct, there is a theoretical possibility of a negative residual error rate (in cases where the sum of financial corrections made by the member state exceeds the quantification of the risk). b) How will a negative residual error rate be considered and treated? Would it be possible for member states to avoid a negative error rate outcome by adjusting their final application for payment?	The final control report should disclose by programme the residual risk rate at closure, corresponding to the sum of annual residual risk amounts divided by the sum of the total expenditure declared at closure. The AA may disclose an unqualified opinion if the residual risk rate at closure is below the material level of 2% of the expenditures declared. In order to obtain unqualified opinion, corrective measures will have to assure that the residual risk rate is below the material level.
257	Calculation of the residual error rate (FEIs advances)	Annex VI	In order to calculate the residual error rate, the AA must, for each reference year, multiply expenditure declared to the Commission by the projected error rates to quantify the total financial risk. Total declared expenditure will include advance payments made to FEIs. Does the Commission consider that, by including FEI advance payments in the calculation, the residual error rate may be skewed? If so, how will this be overcome?	The Commission's residual error rate is mainly based on the error rates provided in the ACR and it shows the error rate on the population, including the advance payments to FEIs. As such, there is no skewing involved by these advance payments considering that they are eligible cost items.
258	Calculation of the residual error rate	Annex VI	Similar to its work to determine the projected error rate, will AAs be required to verify the statistical significance of the residual error rate? If so, could the Commission please offer suitable guidance?	As explained in Annex VI of the CGL, the AA will have to present in the final control report the estimation of the residual risk at closure, which is based on the yearly "Residual risk amount" (column G). The AA must ensure that the information presented in the "Table for Declared Expenditure and Sample Audits" is reliable and that it is based on representative samples, as required by Article 17 Imp. Reg.

Q	Topic	Reference to the Guidelines	Question	Answer
259	Terminology	Annex I-VII	There is a column called "certified expenditure paid" in the tables in the annexes. What does this formulation exactly mean? Does it mean certified eligible expenditures or total expenditure of the project?	It means the total certified eligible expenditure actually paid out for the project.
260	Terminology	Annex I, III	Tables I and III require to fulfil the "investment costs". Why is it not required to fulfil the other sources (non-investment)?	The total (final) investment costs of the MP are required by the Imp. Reg., Annex XVIII, point 5.
261	ETC		We still have concerns about the lack of specific guidance for the ETC programmes in the closure guidance and it would be helpful to have separate ETC Closure guidance as these programmes are more complex than the mainstream programmes. Is it possible still to produce an ETC specific document?	No, from the policy perspective, we would like to keep ETC covered by one set of guidelines. The Commission is ready to provide any support for the successful closure of the ETC programmes and to address any specific issues linked to the programme closure.
262	ETC		Do the Commission plan ETC specific closure workshops?	Yes, a workshop was organised by Interact with the presence of Commission representatives in Brussels on 5/6 (see presentations http://www.interact-eu.net/events/closure_of_2007_2013_etc_programmes/14/14009. The Commission is ready to continue with a specific support for the ETC community.
263	ETC		Could the Commission produce a closure timetable specific for the ETC programmes, given their multi-national nature requires much more co-ordination of the closure process?	There will be no specific timetable for the closure of ETC programmes, there are deadlines applicable to all programmes. Interact which is here to assist ETC programmes could help with that issue and of course the Commission is ready to assist with the ETC closure.
264	programming period 2014-20		According to the CPR, the certification function can again be integrated into the Managing Authority/body. If this happens at the level of the MA and the CA, may the departments choose a different structure, i.e. separation in MA and CA? Does this also apply the other way round (MA and CA remain separate, but integrated at department level)? What is the situation with the necessary independence of the CAs in the programming period 2007-13 (closure till 2017), when the same persons are part of the managing bodies for the programming period 2014-20 (from 2014 onwards)? Must the departments submit here a new personal resource planning?	The independence of the CA should, in accordance with Article 62 Gen. Reg., be insured in the programming period 2007-13. Accordingly, it is not possible that the same person chairs the MA and CA.

Q	Topic	Reference to the Guidelines	Question	Answer
265	COCOF 12-0050-01 – Retrospective projects		Are projects already completed but which are on a list of eligible projects (although not financed by EU funds) following a call for proposals under the regional programme to be considered as retrospective projects?	In case MAs decide for retrospective financing, it is their responsibility to ensure that operations financed by the Funds comply with the provisions of the Treaty and of acts adopted under it (Article 9(5) Gen. Reg.), that operations are selected for funding in accordance with the criteria applicable to the OP and that they comply with applicable Union and national rules for the whole of their implementation period (Article 60(a) Gen. Reg.). The MA is required to determine, whether such operations are in full compliance with all the regulatory provisions before taking a decision to support those operations under an OP.
266	Availability of documents		Is there a final date after which the documents of the programme need not to be kept available?	Article 90 Gen. Reg. requires that documents are kept available for a period of three years following the closure of OPs. Impediments to such a closure due to legal or administrative proceedings can due to the necessary interruption of the three years period extend the period in which the relevant documents have to be kept available
267	VAT		In case of an increase of the VAT (and no possibility for the beneficiary to recover the VAT) happening after a grant was allocated following a call for proposals, is it possible to increase the amount of the grant to allow for such an increase of the VAT to be covered?	This question is not related to closure so it is up to the MA to apply rules set out within the call of proposals bearing in mind that these rules can differ across MS.
268	Monitoring of TA		Due to the specific characteristic of TA, the MA guidelines says: "For TA operations, the operations, relating to services, education/training, employment, for which a five-year monitoring is not sensible, the duration of the monitoring of the operation is adjusted appropriately by taking into account the content of the project." Do we have to strictly take into account Article 57 Gen. Reg. regarding the durability of the operations and consequently the 5-year monitoring of TA projects or is it possible to take into account the specific characteristics in certain types of projects for which the monitoring of the operation after the closure of the operation is not sensible (e.g. TA – employments for the duration of the project which close for example on 30 November 2015)?	Article 57 Gen. Reg. is not applicable to the ESF activities and if some TA operations are having similar characteristics (like staff costs), then durability provisions are not applicable.

Annex

Timeframe of the deadlines relevant for the 2007-2013 closure[1]

REGIO F1, 2/9/2013

the date of submission of the OPs to the Commission or **1 January 2007** eligibility of expenditure starts

30 September 2013 amendment of the financing plan involving a transfer between SFs or OPs

31 December 2013 no change of annual commitments

30 June 2015 communicate to the Commission a list of MPs which they propose to divide into phases

30 September 2015

- Commission recommends the submission of the request for an amendment of OPs
- Commission recommends submitting the request for an amendment of a MP

31 December 2015

– final date of eligibility of expenditure (incl. for management costs or fees not only for FEI and for state aid, advances paid to the beneficiaries by the body granting the aid should be covered by expenditure paid by beneficiaries in implementing the project and supported by receipted invoices or accounting documents of equivalent probative)

– the Member States should submit the last ACR

After 31 December 2015 investment activity by the final recipient may continue and new investments can be made until closure (recommended deadline: 31/12/2016)

[1] Please note that HR has an additional year with regard to the final date of eligibility and the date for the submission of the closure documents. Several deadlines are, accordingly, to be extended by an additional year. However, this does not apply for the deadline of 31/12/2013 for changing annual commitments.

DISCLAIMER: The answers in no way take precedence over the rules set out in the relevant Union legislation or in the Closure Guidelines.

30 June 2016

- the Commission recommends that Member States/CA submit the last interim payment claim, thus ensuring that after this date no new expenditure will be declared to the Commission before the submission of the final payment application (to ensure that the AA is able to cover the expenditure declared in 2016)

- no AIR for the year 2015, with the exception of the data on FEIs

31 December 2016 – no ACR (no ACR is submitted)

[**31 December 2016** final date of eligibility for Croatian programmes and for programmes of the cross-border cooperation component of the ETC objective where Croatia is one of the participants]

January 2017 the Commission sends a letter to Member States informing them of the consequences of the late submission of the closure documents

31 March 2017

- all closure documents should be submitted
    - certified statement of final expenditure, including a final payment application
    - FIR (incl. information on the value of legacy resources attributable to ERDF/ESF resources at 31 December 2015)
    - closure declaration, supported by a final control report (incl. audit work carried out until 1 July 2015 and audit work carried out between 1 July 2015 and 31 December 2016 in order to cover the expenditure declared in 2015 and 2016)
- the final annual statement on: (i) withdrawals and recoveries (deducted from statements of expenditure certified during 2016); (ii) pending recoveries and irrecoverable amounts (as at 31 December 2016) is sent via SFC2007
- eventually existing net revenue should be deducted by the CA from the expenditure declared to the Commission

2 months (general rule)

- given to a Member State to carry out the correction - the Commission may request that a Member State corrects the application for payment of the final balance or the statement of expenditure insofar as this involves the submission of supplementary information or the making of technical

corrections where such supplementary information and corrections relate to expenditure submitted to the Commission before the deadline for submission

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

31 August 2017 (5 months)

- the Commission has five months from the date of the receipt of the final report to confirm its admissibility or provide comments to Member States in case it is not satisfied with its content and ask for it to be revised
- the Commission informs the Member State of its opinion on the content of the closure declaration within five months of the date of its receipt; if no observations within this period, it is deemed to be accepted

30 September 2017 first report to the Commission on non-fuctionning projects already completed, as well as on the measures taken including milestones in order to complete the remaining projects

31 March 2018

- closure of an optimal programme:
  - the objective is to have the final report revised and accepted by the Commission within 1 year of the date of its receipt
  - the objective is to have the closure declaration revised and accepted by the Commission within one year of the date of its receipt, except for those cases that the request for further audit work requires a longer period
- second report to the Commission on non-fuctionning projects already completed, as well as on the measures taken including milestones in order to complete the remaining projects
- [deadline for submission of closure documents for Croatia]]

30 September 2018 third report to the Commission on non-fuctionning projects already completed, as well as on the measures taken including milestones in order to complete the remaining projects

31 March 2019

- if expenditure paid for non-functioning projects are present in a final statement (a list of non-functioning projects is in the final report) then MS has to complete all non-functioning projects and to reimburse the Union co-financing allocated in case of non-completion of such projects
- date of closure of the programme (as communicated by the Commission) + 3 years
    - all the supporting documents regarding expenditure and audits on the programme concerned are kept available for the Commission and the Court of Auditors
    - period could be interrupted either in the case of legal proceedings or at the duly motivated request of the Commission
    - The MA should make available to the Commission on request a list of all functioning operations