



# Closure 2007-2013

**Seminar Prague  
June 2015**

# Building blocks of the Seminar

- **Changes and lessons learned compared to 2000-2006**
- **Modifications of the closure guidelines**
- **Advanced phasing, non-functioning**
- **Revenue generating projects, State aid**
- **FEI, Durability of operations**
- **Monitoring of indicators**
- **Irregularities, suspended operations, force majeure**
- **Timing and closure documents**
- **Calculation of final payments and flexibility**
- **Closure of programmes with no succession programme in 2014-2020**



# Closure 2007-2013

**Changes and Lessons learned from 2000-2006  
Modifications to the closure guidelines**

**Andreas von Busch**

# Major changes compared to Closure 2000-2006 (1) : in substance

- **Final date of eligibility & deadline for submission of closure documents** fixed in the Regulation: no extension possible
- **No individual closure of Cohesion Fund projects** since CF has been mainstreamed

# Major changes compared to Closure 2000-2006 (2): irregularities

- Disclosure of the **annual total projected error rates and residual risk rate** for the programme at closure
- **Reporting** on withdrawn and recovered amounts, pending recoveries and irrecoverable amounts, not only on recoveries
- **No payment of irregularities at closure** unless amounts are irrecoverable and the MS requests the EU Budget to share the burden of the loss and Commission accepts
- A **commitment will remain open for pending recoveries**
- **Quarterly reporting to OLAF** independent of the reporting on irregularities under Cohesion policy rules

# Major changes compared to Closure 2000-2006 (3): form & procedure

- **Final Implementation Report**
  - following a template in annex XVIII of Commission regulation
  - one-step approach for admissibility and quality check of the Final Implementation Report
- **Specific reporting on FEI following 2011 amendment of the General Regulation**
- **Electronic submission** of closure documentation via SFC 2007

# Most problematic issues at closure 2000-2006

- Closure documents were prepared at the **last moment**
- Insufficient number or **late execution of checks**
- Incomplete documents and long "**ping-pong**" between the Commission and the Member State to obtain additional information
- Disagreements with the Commission over the extent and application of **financial corrections**
- **Lack of overbooking** results in net loss
- **Not enough staff** allocated to closure



# **Closure Guidelines**

## **Interpretation of legal provisions**

### **Commission Decision**

*Discussion in COCOF in June-October 2012*

Adoption of the Closure Guidelines (CGL) by the Commission 20 March 2013

*20 Closure Seminars covering 28 Member States*

*6 Q&A uploaded in CIRCA; Aggregated version before summer*

*Modification of the General Regulation in December 2013 requires adjustment of the CGL*

*Council Conclusion of 18 December claims further flexibility to maximise use of existing commitments*

# Modification of the General Regulation

*Regulation (EU) No 1297/2013 of 11 December 2013 amending Council Regulation (EC) No 1083/2006 modifies Art 77 and*

- **extends the top-up for Member States that remained in a financial support mechanism at the date of the adoption of the modification**
- **introduces by a new paragraph (12) a 10% flexibility at priority level at closure.**

*'12. 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 operational programme. 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 operational programme as laid down in the decision of the Commission approving the operational programme.'*

# European Council conclusion

*European Council mandates in December the Commission to*

*"find solutions to maximise the use of commitments under the 2007-2013 MFF period and recognises the desirability of delivering long-term projects in the years ahead using the flexibility of the existing rules"*

# **Adaption of Closure Guidelines following Council Conclusions**

## **2 main elements added to the modifications already discussed in EGESIF in October**

- **The possibility to justify eligible expenditures for Financial Instruments operations by loans, guarantees or equity provided to final recipients up to the date of the submission of the closure documents as long as these can be covered by the closure declaration.**
  
- **The simplification of phasing conditions to respond better to the technical requirements of implementation without compromising the audit trail.**



## **Adaption of Closure Guidelines to be explained in more detail in the relevant building block**

### ***Phasing:***

*Advanced phasing, non-functioning projects by Annick Villarosa (REGIO F1- Operational Efficiency)*

### ***FEI- extension for payments to final recipients:***

*Financial engineering instruments, Durability of operations (Art 57) by Carole Mancel-Blanchard (REGIO B4- Legal affairs)*

### ***Flexibility:***

*Calculation of final payments and flexibility by Carole Mancel-Blanchard (REGIO B4- Legal affairs)*



# Closure 2007-2013

**Advanced phasing, non-functioning projects**

**Annick Villarosa**

## Phasing (1) - Changes in the CGL

### OUT

- 'ready to be used for its purpose'

### IN

- 3 programming period phasing not possible
- Productive investments can be phased

## Phasing (2) – Definition of phases

- Two clearly identifiable stages (from a physical & financial point of view)
- **not possible to use only financial milestone (85% of costs, or 75% of construction or materials, etc.) for defining a phase**
- a phase should be auditable with regard to its physical object, allocated amounts and results achieved, meaning that it should demonstrate achievement of tangible targets.

N.B. Failure to complete in 2014-2020 may trigger financial correction and possible irregularities under phase 2 may affect phase 1 (potential financial correction on both phases)

## Phasing (3) – Definition of phases

**Infrastructure projects** – define phases based on outputs

- ✓ phasing based on bill of quantities
- ✓ physical progress as acknowledged by the supervising engineer
- ✓ purchase of raw material possible under both phases

### **R&D**

For staff costs clear cut-off date for salaries to fix for each phase

### **Equipments in projects**

Pieces of equipment can be purchased under both phases

### **IT projects (immaterial elements)**

Consider phasing: analysis, design, implementation, testing, roll-out

## Phasing (4) – Major Project amendment

- Submit amendment request by **30 September 2015**.
- Update the original application and take into account revised project details/timeline
  - update of documents or procedures may be needed (CBA, EIA, permits).
- Amended decision reaffirms overall objective of the major project, the scope of each phase and the corresponding financial allocation

## Phasing (5) – MP approval in 2014-2020

- Conditions for applying **simplified notification** i.e. without Independent Quality Review for phase 2 (Article 103)
  - ✓ Phase 1 to be approved by 31/12/2015
  - ✓ Sum of total eligible costs of all phases above threshold (50 or 75 million €)
  - ✓ COM assessed all phases and no substantial changes occurred
- Otherwise (Article 102): either notification or Commission's full assessment of phase 2 – just as a new MP
- Project application of phase 2 should refer to both phases and also to the overall physical and financial objective.
- In all cases, phase 2 to be included in the MP list of the programme

## Phasing (6) - Horizontal costs

Certain costs cover both phases, but paid at the beginning of project implementation (in phase 1) i.e. before 12/12/2015

i.e. land purchase, insurance cost, project preparation – feasibility study, impact assessment, consultancy

- **Land purchase:** up to 10% of the total eligible expenditure of phase 1 (threshold in General Regulation)
- **Insurance cost:** eligible, but cannot be a phase 1 in itself
- **Project preparation (studies, EIA, etc.):** eligible, can even be a phase in itself, but consider possibility of a separate project (to avoid administration)

## Phasing (7) – Contractual advances

Contractual advance payments are eligible if

- Beneficiary paid before 31/12/2015, the invoice has been issued and corresponding work/service delivered
- The compliance of the operation checked by closure

**ELIGIBLE ONLY IF national rules or contractual practices for a given type of work or service already allow for such payment modalities.**

When phased:

- A) Either ONE contract (or the contracts) cover both phases
- B) Or contracts are specific to each phase

## Phasing (8) – advances: contract covers both phases

The amount of the advance to be matched by physical delivery (works, services) by closure

Acceptable:

Advance payment  
(i.e. € 5 million)

Phase 1  
(min. € 5 million)

Phase 2 (remaining  
eligible costs)

NOT acceptable:

Advance payment  
(i.e. € 5 million)

Phase 1  
(€ 2  
million)

Phase 2  
(remaining eligible costs)

## Phasing (9) – advances: contracts specific to phases

Advances of contracts under phase 1 are eligible only.  
Advances paid for contracts under phase 2 are not eligible.

Advances  
of phase  
1

Contract  
n°1 –  
phase 1

Contract  
n°2 –  
phase 1

Advances  
of  
phase2

Contract  
n°3 –  
phase 2

Contract  
n°4 –  
phase 2

## Phasing (10) – Specific situations

- Investments under Phase 2 not covered by OP 2014-2020 but by CEF
- Phased project exceeds the MP threshold of 2007-2013 (total cost) but not the 2014-2020 threshold (eligible cost)
- Modification of a phased project appears necessary in 2016 when checking the expenditure declared
- In 2023 it appears that a phased project is subject to a severe violation of procurement rules as regards a contract that started to be implemented under phase 1
- Phase 1 cannot be finalised in the 2007-2013 programming period

# Non-functioning operations

- Definition: Non-completed projects or projects completed, but not in use (at the submission of closure documents).
- Can be, **exceptionally and on a case-by-case basis**, included in final statement of expenditure IF:
  - Operation over 5 MEUR of total costs;
  - Total of EU contribution to all non-functioning projects < 10% of total OP allocation.
  - MS commits to complete non-functioning projects before 31 March 2019 and to report to COM every 6 months.
  - List of non-functioning projects included in FIR.

**No extension of the final date of eligibility**

# Non-functioning operations: outcome

- **Functioning:** Information on completion and operational aspects provided to the Commission. No further payment as already paid at closure.
- **Non-Functioning:** Recovery of funds allocated to the whole project. If MS disagrees, financial correction (Art 99 of GR)



# Closure 2007-2013

**State aid  
Revenue generating projects**

**Andreas von Busch**



# Eligibility of expenditure for State aid

- The beneficiary must have executed the payment for which the aid has been granted before the eligibility end date, i.e. 31 December 2015
- In addition to the payment being made by the beneficiaries, the public contribution to the beneficiary must be paid before the submission of the closure documents, i.e. 31.03.2017
- Advances paid to the beneficiaries should be covered by expenditure paid by beneficiaries at the latest on 31 December 2015

# Revenue generating projects: Definition

## Revenue generating project means:

- any operation involving an investment in infrastructure the use of which is subject to charges borne directly by users or
- any operation involving the sale or rent of land or buildings or
- any other provision of services against payment

Provided that the projects generate net revenue ( revenues – operating costs (+ residual value))

# Revenue generating projects: Estimation of revenue in advance Article 55 (2)

- Financing needs based on estimates
- Deduction required at the latest of closure
  - New sources of revenue
  - Changes in the tariff policy
- No compulsory deductions required to take into account the variation of revenues which sources have been taken into account ex ante
  - Unless systematic ex ante underestimation of revenues

# Revenue generating projects: Estimation of revenue not possible in advance

## Article 55 (3)

### Estimation impossible in advance due to:

- **Lack of data** (for tariff & demand)
- **Unforeseeable demand** (new demand might be generated by supply)

### Deduction required at closure:

- **the net revenues generated**
  - within 5 years from the completion of an operation
  - or at closure, whichever comes first
- **shall be deducted from the expenditure declared to EC**

# Revenue generating projects: Monitoring

System should be in place for monitoring of revenues

## Objective:

- **Prevent over-financing** (by correct application of funding gap methodology, etc.)
- Contribute to **effective allocation of resources**

**Early detection of possibility to reallocate funds prevents losses at closure**

# Revenue generating projects: Exceptions

Provisions on revenue-generating projects do not apply to:

- projects subject to **State aid rules within the meaning of Article 87 of the Treaty** (following Leipzig-Halle judgment of the Court of Justice of EU, more infrastructure projects fall within the ambit of State aid)
- operations covered by **financial engineering instruments** under Article 44 of Council Regulation (EC) No 1083/2006
- operations with total cost below 1 Meuro

# Revenue generate projects

## Specific situation:

A new fee, not taken into account in the funding gap calculation, has been introduced for the use of an infrastructure during the programming period.

Revenues are generated by selling wood that has been cut for road constructions or energy savings after a refurbishment of infrastructure.

Tariffs are increase according to a price index to which the funding gap calculation refers. Due to the economic development the price index increases more than initially assumed.

Water network connection fail to achieve the revenue targets fixed in the financial gap analysis and at the end of the implementation it become apparent that the funding gap increased.

A hospital receives support from the national assurance health system which are used to finance equipment that is partly covered as well by ERDF (alternatively: a private assurance pays the hospital for scanners used by its clients)

# Revenue generate projects

## Question:

What is the procedure regarding the sale of property within the durability period? The property was remediated by the grant (former brownies). Will the mechanism of other financial revenues be applied? That is - will the beneficiary pay back the money earned by the sale or should he reduce indicators and return a proportion of the grant? Or will the managing authority decide what should be done?



# Closure 2007-2013

**Financial engineering instruments  
Durability of operations (Art 57)**

**Carole Mancel-Blanchard**

# Financial engineering instruments

## What is eligible at closure ?

- ☒ Not the OP contribution to the FEI
  
- ☑ **Payments to final recipients** under each FEI
  - If activities and recipients eligible
  - Only repayable assistance subject to exceptions
  - Special rule on guarantees: multiplicator
  
- ☑ Management costs and fees
  - Capped
  - Annual average
  - No overlap with arrangements fees

# Financial engineering instruments

Eligibility of grant elements (*interest rate subsidy, guarantee fee subsidy and measures such as loan discounts or capital rebates for the commercial part of the loans*) **under conditions:**

- **Grant elements shall be associated** and combined with ERDF/ESF loans or guarantees in a single financing package
- In respect of loans disbursed **by 31.03.2017**
- At closure **capitalisation needed** (discounted payment obligations to be calculated)
- Corresponding amount shall be **transferred to escrow account**

# Financial engineering instruments

Amounts to be deducted from the eligible expenditure:

- overlap between arrangement fees paid by final recipient and eligible management costs/fees
- interest generated by payments from the OP to FEI (including holding fund) which are attributable to Structural Funds contribution not spent for eligible expenditure by the end of eligibility period

# Financial engineering instruments

## Reporting requirements

- Data on FEI to be reported in June 2016 for 2015 (cumulative data)
- Information relevant for eligibility at closure
  - Management costs and fees
  - Amount of capitalised interest rate subsidies or guarantee fee subsidies
  - Interest generated by payments from OP
  - Legacy

# Financial engineering instruments

Main qualitative information to be provided at closure:

- The number and the type of funds
- The national co-financing (and co-investors)
- Funding Agreement (signature, modifications, amounts, duration)
- Types of product offered and final recipients targeted
- Brief assessment of fund performance in terms of its contribution to the achievements of objectives
- Difficulties encountered (reasons, nature of difficulties, timing, remedial actions and their effectiveness)

# Financial engineering instruments

## Effects of CGL modification

- Coverage of the OP contribution by eligible investments and management costs and fees theoretically possible until 31.03.2017
- Restriction: Checks of the AA by 31.03.2017

*CGL: '...audit authority 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 audit authority well in advance (it is recommended that these documents are provided to the Audit authority at least three months before the deadline of 31 March 2017)'*.

# Financial engineering instruments

## Specific situations:

- Final recipient has received loans or guarantees but did not use it for the investment
- Resources returned to the FEI are reinvested
- Investments are done by the FEI in sectors not covered by the objectives of the programme

# Question

Is it possible to withdraw a part of unutilised resources from a financial engineering instrument (FEI) and put it back to the operational programme during January 2016 or is it necessary to withdraw it by 31/12/2015?

# Durability of Operations

- Five years after completion
- Substantial modification caused by a change of ownership or cessation of a productive activity
- No Funds for undertakings subject to procedure of recovery due to transfer of a productive activity within a MS or to another MS
- ESF – Only in case of State aid (Art 107 of Treaty)
- Possibility to reduce to three years for SMEs
- Does not apply to cessation of the productivity activity due to non-fraudulent bankruptcy

# Durability of operations

## Specific situations:

- Operation that has been implemented by public authority is privatised
  - implementing conditions maintained
  - Implementing conditions changed
- Operation is subject to a bankruptcy within five years from the date of completion
  - Fraudulent bankruptcy
  - Non fraudulent bankruptcy

# Questions

- Kind of projects considered to be investments in infrastructure
- Interpretation of Article 57 with special regard to outputs
- Specification for projects financed from ESF
- Rules applicable if use of Cross-financing
- End date of durability obligations for operations completed after 31.12.2015



# Closure 2007-2013

**Monitoring of indicators  
suspended operations, force majeure**

**Annick Villarosa**

# Reporting on results

- No target modifications to match performance
- Underachievement or overachievement (> 25%) should be explained – in particular in relation to core indicators.

# Reporting on results

- **Explanation and justification** of any significant divergence against the set targets and problems encountered in their achievement should be provided
- MS should demonstrate that it has adopted **corrective actions** during the implementation
- **No automatism** in applying the financial corrections if indicators are not achieved
- Financial corrections for the evident non-achievement of programme objectives will have **to be assessed case-by-case**

# Reporting on results

Each Final report should include the final picture in relation to:

- The **categorisation data** – a table should be provided that is consistent with the EU share of declared eligible expenditure. This will indicate how the EU resources were finally used.
- The reporting of **core indicator achievement values** linked to the completed projects included in the final declaration.

# Suspended operations

- Due to legal proceedings or administrative appeals having suspensory effect.
- MS must decide before the deadline for submission of closure documents whether the operation should be withdrawn/replaced (by another eligible operation) or retained in the programme.
- If retained, inform COM of the (maximum) amount that could not be declared in order to keep the commitment open.
- Outcome: further payments, recovery or confirmation of payments made.
- List of suspended operations should be submitted at closure (Annex VII).

**No extension of the final date of eligibility**

# Suspended operation: outcome

- Decision in favour of the beneficiary: New payment or confirmation of previous payment
- Decision in favour of the Managing Authority: No payment and possible recovery of previous payment with reimbursement to the Commission of the EU-share
- In case amount previously paid irrecoverable: Commission may bear the loss of the EU-share (conditions apply)

# Irrecoverable amounts

*"COCOF Guidance note to Certifying Authorities on reporting on withdrawn amounts, recovered amounts, amounts to be recovered and amounts considered irrecoverable, applicable to programming period 2007-2013 and the remainder of the 2000-2006 programming period"*

# Irrecoverable amounts

Annual statement on irrecoverable amounts (to be provided by Member States by 31 March each year). New provision added in 2009 to Article 20 of Regulation (EC) No 1828/2006 which specifies that "if, within one year from the date of submission of the statement, the Commission does not request information..., does not inform in writing the Member State about its intention to open an enquiry in respect of that amount or does not request the Member State to continue the recovery procedure, the Community share shall be borne by the general budget of the European Union."

# Irrecoverable amounts

- The Commission only requires the basic information on each case and exercises a presumption that the Member State has been diligent in pursuing recovery = no longer any requirement to provide the Commission with a special report on each case of irrecoverable amount.
- The template reporting table shows the obligatory data which Member States must provide on amounts considered irrecoverable.
- The Commission may decide to contact the Member State (within one year) in order to investigate in full the due diligence of the Member state.

# Force majeure

Exception for operations suspended due to force majeure = principle of EU law.

Concept defined by the Court of Justice: non-performance was due to circumstances (cumulative conditions) which:

- a) were beyond the control of the person/body claiming force majeure,
- b) were abnormal and unforeseeable, and
- c) could not have been avoided despite the exercise of all due care.

Allows the declaration of expenditure incurred and paid **after 31 December 2015** and review of closure documents **after the deadline for submission**

# Operations at closure

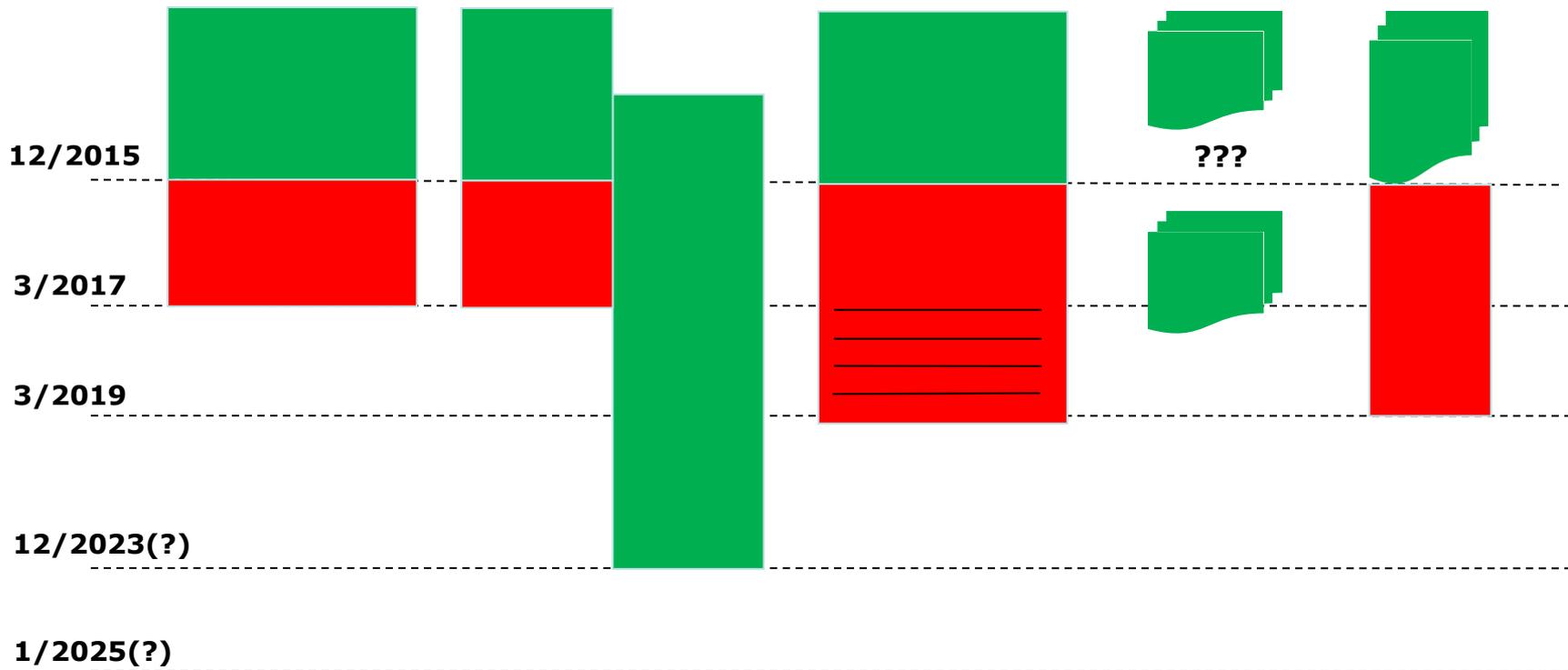
**functioning**

**phasing**

**non-functioning**

**force majeure**

**suspended**





# Closure 2007-2013

**Submission, content and timeline of closure documents**  
**Calculation of final payment, irregularities, flexibility**

**Carole Mancel-Blanchard**

# Timeline for Closure

## Before submission of closure documents

**30-06-2015:** deadline for communicating to COM the list of major projects to be phased + deadline of submission of the last Annual Implementation Report 2014 (exception FEI)

**31-12-2015:** target for amending decisions on OPs including transfers of funds between priority axis (any previous year) + amending decisions of Major Projects + last ACR

**30-06-2016:** deadline recommended for the submission of the last interim payment to COM

**31-12-2016:** deadline recommended for the CA to submit to the AA application for payment of final balance + final statement of expenditure

# Timeline for Closure

## At submission of closure documents

### **31-03-2017:**

- final date for submission of all closure documents through SFC
- final date for new or additional deductions of net revenues for some RGP (irrespective of the starting date of the project)
- State aid - final date for the body granting the aid to pay the public contribution to the State aid beneficiaries

# Timeline for Closure

## After submission of closure documents

**1 year after reception of closure documents** : global objective for the COM to close as many OPs as possible

**31-03-2019** : deadline for the final reporting on non-functional projects

**No time limit** : Report on pending recoveries + operations suspended due to legal or administrative proceedings

# Preparation for closure : closure documents (a)

- **Closure documents (Art.89(1) of the Gen Reg.)**
  - *Application for payment of the final balance and statement of expenditure*
  - *Final Implementation Report (FIR)*
  - *Closure declaration (supported by a final control report)*
- **Deadline for submission- 31 March 2017 via SFC**
  - *Interim Payment claims even when the threshold of 95% of the contribution from the funds to the OP has been reached*
  - *Failure to submit any of the closure documents: decommitment of the final balance*
  - *Failure to submit the FIR or FCR: potential financial correction*
- **Changing documents after the deadline for their submission**
  - *no new expenditure allowed after submission*
- **Availability of supporting documents**
  - *3 years following date of closure (or partial closure)*

# Preparation for closure : closure documents (b)

- **Certified final statement of expenditure and final payment application**
  - Possible discrepancies between EU funds reimbursed at priority axis level and EU funds paid/due to be paid at project level
  - Public contribution paid or to be paid (paid in any case for State aid) to beneficiaries at least  $\geq$  EU contribution to the programme
  - Beneficiaries to be paid in full as quickly as possible
  - Possibility to "overbook" expenditure but not after the deadline for submission of closure documents

# Preparation for closure : closure documents (c)

- **Final Implementation Report (FIR)**
  - Commission has 5 months to confirm its admissibility or provide comments to MS in case it is not satisfied
  - Objective: Approval within one year of submission,
  - Consequence if MS fails to provide satisfactory responses to comments sent by COM → FIR rejected and at the same time financial corrections may be applied in the context of Article 99

# Preparation for closure : closure documents (d)

- **Closure declaration**
  - Submission of a closure declaration by programme
  - Final control report might cover more than one programme or Fund → includes audits as of 30/06/2015 and between 01/07/2015 and 31/12/2016, also covering expenses paid in 2015 and 2016
  - Residual error rate to be mentioned
  - Objective: revise and accept the closure declaration within one year of submission subject to audit issues.

# Irregularities

## **Exemption of reporting obligations:**

- cases where the irregularity consists solely in the failure to execute, in whole or in part, an operation owing to the bankruptcy of the beneficiary (simple bankruptcy);
- cases brought to the attention of the MA or CA by the beneficiary voluntarily and before detection by either of them, whether before or after the inclusion of the expenditure concerned in a certified statement submitted to the Commission;
- cases which are detected and corrected before inclusion of the expenditure concerned in a statement of expenditure submitted to the Commission.

**However, irregularities preceding a bankruptcy and cases of suspected fraud must be reported.**



# Irregularities

## Reporting threshold

Where the irregularities relate to amounts of less than €10,000 chargeable to the EU budget, Member States are exempt from the reporting obligation unless the Commission expressly requests information on such amounts.

## Reporting detail

Less detail on recovery procedures now required; report only the initiation, conclusion or abandonment of any procedures for imposing administrative or criminal penalties related to the reported irregularities, as well as the outcome of such procedures.

# Calculation of the final balance/ flexibility

- **2000-2006** : calculation at measure level, limited flexibility between priority axis, deadline for modification of financial plan limited to end of 2006
- **2007-2013** : calculation at priority axis level, flexibility to modify financial plans till end of 2015 (transfers between priority axis)+10 % flexibility between priority axis.

## Financial transfers :

- No transfer between OPs possible anymore(deadline : 31/12/2013)
- Subject to prior discussion on the justification of transfer, possibility of modification of allocations between priority axis

# Calculation of the final balance and irregularities

## Distinction and links to be drawn between:

- **Statement on amounts withdrawn, recoveries, pending recoveries and irrecoverable amounts** : final statement to be issued by CA by 31/03/2017 (Annex XI of the Implementing Regulation) → *COM commitments kept open for pending recoveries and irrecoverable amounts when additional info is required*
- **Operations suspended due to legal or administrative proceedings** : decision to withdraw/retain + obligation of information by MA (Annex VII of Closure Guidelines) → *COM commitments kept open (no time limit)*
- **Financial correction** : no time limit. Could also happen beyond the period of retention of documents by beneficiaries.

# 10% Flexibility and Overbooking

Declaration of more eligible expenditure than what is needed for the Commission to pay all the Funds committed for the OP

## Advantage:

- promote the full absorption of funds and creates financial buffer

## Warning:

- expenditure in overbooking must be for operations legal and regular
- checks and controls from MA, CA and AA required
- National funds shall cover the part of the expenditure overbooked which will not be reimbursed by the Commission



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## Flexibility -Example

Closure 2007 - 2013

Example for a multi-objective programme

Financial Plan								Final declaration of expenditure		Calculation at the level of the priority axis			Calculation at the level of the programme	
Priority	Eligible Total	EU (Fund Contribution)	National Counterpart	National Public	National Private (*)	Public /Total	Cofin Rate	Total expenditure	Public Contribution	Calculated Fund Contribution (1)	Flexibility limit	Amount retained at priority level (2)	Capping to Public Contribution (3)	Capping to Fund Contribution (4)
	$A = B + (z)$	B	$(z) = (x) + (y)$	(x)	(y)	P / T	$C=B/A$	D	E	$F=C*D$ or $C*E$	$H=B+B*10\%$	$J=\min(F,H)$	$K=\min(J,E)$	$L=\min(K,B)$
Priority 1	95,000	81,000	14,000	14,000	0	P	85%	100,000	100,000	85,263	89,100	85,263		
Priority 2	60,000	45,000	15,000	15,000	0	P	75%	54,000	54,000	40,500	49,500	40,500		
Priority 3	61,000	52,000	9,000	9,000	0	P	85%	64,000	64,000	54,557	57,200	54,557		
<b>Objective COM</b>	<b>216,000</b>	<b>178,000</b>	<b>38,000</b>	<b>38,000</b>	<b>0</b>			<b>218,000</b>	<b>218,000</b>	<b>180,321</b>	<b>195,800</b>	<b>180,321</b>	<b>180,321</b>	<b>178,000</b>
Priority 4	800	600	200	150	50	T	75%	720	580	540	660	540		
Priority 5	7,000	6,000	1,000	800	200	T	86%	8,000	6,200	6,857	6,600	6,600		
Priority 6	27,000	20,000	7,000	5,000	2,000	T	74%	24,000	19,200	17,778	22,000	17,778		
<b>Objective CONV</b>	<b>34,800</b>	<b>26,600</b>	<b>8,200</b>	<b>5,950</b>	<b>2,250</b>			<b>32,720</b>	<b>25,980</b>	<b>25,175</b>	<b>29,260</b>	<b>24,918</b>	<b>24,918</b>	<b>24,918</b>
<b>Programme</b>	<b>250,800</b>	<b>204,600</b>	<b>46,200</b>	<b>43,950</b>	<b>2,250</b>			<b>250,720</b>	<b>243,980</b>				<b>Final result at programme level</b>	<b>202,918</b>

(\*) To be completed only when priority axes are expressed in total costs

(1) The amount resulting from applying the co-financing rate, established under the latest financing plan in force, to the declared eligible expenditure

(2) Capping to the maximum amount of assistance from the Funds as laid down in the decision of the Commission approving the operational programme increased by 10%

(3) Capping to the public contribution declared

(4) Capping to the maximum amount of assistance from each Fund to the operational programme as laid down in the decision of the Commission approving the operational programme

# Use of Flexibility and Overbooking

## Specific situations:

- Need to compensate irregular expenditure by regular expenditure between two different priority axes after submission of closure documents
- 10% underdeclaration of expenditure in a large priority replaced by 50% overdeclaration of expenditure in a small priority
- Due to a sudden devaluation of the CZ krona the declared expenditures at closure fail the a full absorption of the amounts declared in the Commission decision of the programme in €

# Questions

- Final implementation report includes also a list of irregularities - should all irregularities be included (even those which regard not certified expenditures), or should the list contain only irregularities exceeding certain limit?
- Application of flexibility - how to compensate exceeding of allocation by decreased drawing in other priority axis. Is there any specific procedure regarding multi-objective projects?



# Closure 2007-2013

**Eligibility of TA; Closure of programmes with no succession programme in 2014-2020**

**Andreas von Busch**

# Technical assistance for closure

*TA for management and implementation of 2007-2013*

*Possible flexibility:*

Article 46 paragraph 1 of the General Regulation financing of preparatory activities of the 2014-2020 period

Remaining closure works after 2015 to be financed by TA 2014-2020

*If a clear demonstrable link between the proposed activities and the preparations/closures exists*

# No succession programme

## **Specific situation:**

Major project cannot be completed within the 2007-2014 programming period (same situation for non-major projects)

Managing authority is dismantled and administrative resources are reallocated to new tasks in another public institution

Administrators following the programme are supported by ERDF resources but support for salaries become ineligible after 31/12/2015

December 2015 salaries are paid to employees in January 2016

# Questions

- Best practice for cases when there is not a new operational programme following the one that is going to be closed (especially with regard to administrative capacity, acquired assets, documentation archiving, etc.)
- Could the Commission provide some best practice examples from previous programming periods for cases when managing authority was abolished? Who assumed the duty of documentation archiving, how was handled the problem of "historical memory" related to the programme? What resources were used to finance other related activities such as web maintenance?

# Reply

- Experience of closing programmes elementary for all programming periods and the need for acquisition of know-how on closure can be considered as demonstrable link even if the fields of investments as such are not covered by the follow-up programmes. Closure exercises between programming periods have many common procedural aspects
- Member State have a legal obligation for 'archiving'-electronic storage systems built up during the programming period more easily to manage
- Use of revolving mechanism (FEI, repayable assistance)



**Thank you for your attention**