Management and control systems and financial management – overview of delegations' comments on CSF Regulations

This overview of questions and answers has been drawn up to provide further information for delegations. The clarification provided does not prejudge in any way the final position of the Commission on any of these questions.

Questions	Commission answers
General questions	
Has any assessment been carried out with the purpose of measuring the additional costs in charge of Member States, for example in the light of the methodology adopted by the study "Regional governance in the context of globalization" reviewing governance mechanisms and administrative costs (Contract No 2008.CE.16.0.AD.056 / CCI No 2008CE160AT090 – 092), released in July 2010.	DG REGIO has commissioned a study to assess the potential impact of main regulatory changes on administrative costs of national and regional authorities and on the administrative burden of beneficiaries. The final report should be available by the end of March 2012.
Is Regulation on financing, management and monitoring of common agriculture policy (CAP regulation) treated as "a Fund specific rules" as it is stated in the art. 63, 65, 69? Because of legal uncertainty we expect the EC prepares the fiche presenting links between the regulations	Article 2(2) defines the "Fund specific rules" as including a specific or generic regulation governing one or more of the CSF Fund(s) referred to or listed in the third sub-paragraph of Article 1. The CAP Regulation is referred to in Article 1, third sub-paragraph. Consequently, the CAP Regulation is treated as a Fund-specific rule. In light of this, the Commission does not see a need to prepare a fiche.
As there appears to be a considerable overlap of Articles 66-74 with the sectoral regulations which regulation takes precedence in the event of a dispute/conflict?	Part II of the CPR applies to all the CSF Funds except when the relevant Fund-specific Regulation establishes special rules, which derogate from the common provisions, in which case the special rules shall apply. Fund-specific Regulations can establish complementary rules to the common provisions, stemming from Part II.
Could the Commission clarify the reference to the fund specific rules with regard to requests for payments? And what articles are concerned?	The relevant Fund-specific rules in relation to the procedure and information to be submitted for requests for payment referred to in Article 69 include : - Chap. 1 of Title VII "Financial Management, clearance of accounts and financial corrections" of the same Commission proposal (COM(2011)615 final), and *inter alia* articles 119 to 126 for the rules applicable to the Cohesion fund, the ERDF and ESF ; - Chap. 2 of Title IV "Financial Management of the Funds" of Commission proposal COM(2011)628 final of 19.10.2011, and *inter alia* articles 29 to 36 and 39 for the rules applicable to the EAFRD ; - Chap. 2 of Title VII "Implementation under shared management" of Commission proposal COM(2011) 804 final of 2.12.2011 and inter alia articles 96 to 98 for the rules applicable to the EMFF.

We would like to get a clearer picture on when (and at which level) – on the basis of the EC-proposal – the different types of pre-financing (initial + annual) and the interim payments will actually be paid. Could the EC provide us with a more detailed description / flowchart? The Commission proposal on financial management implies a deep change of system. We would like to have further clarification on its functioning, its effects on the national budgets and the way it will aim to reduce administrative burden on Member States and beneficiaries. We would like to know exactly how the financial flows work compared to the current system.	Please refer to Annex I and II
In order to ensure legal certainty and common understanding in the context of the CSF funds of the very important principle, the **rule should be precisely defined** at least whenever it may be linked to possible financial corrections. **We understand that vague definition of sound financial management already exists in Financial Regulation but it needs to be clarified and explained precisely for instance in the form of a delegated act for General Regulation**.	Sound financial management is a term which has been defined as part of the budgetary principles in the Financial Regulation (Article 27 of the current text and Article 26 of the Commission proposal on the revision of the Financial Regulation). Sectoral legislation cannot deviate from that definition. Accordingly the Commission does not share the view that there is a need for a delegated act. The basis for financial corrections should indeed be well defined in the sectoral rules (in line with Article 56 § 6 of the Commission proposal on the revision of the Financial Regulation), and this is what the Commission proposal aims to do in Article 77 ("financial corrections by the Commission") and 136 ("criteria for financial corrections").
Under the principle of **sound financial management** we understand the principles of economy, efficiency and effectiveness. In the draft regulation in the function of management and control system the **effectiveness** is accentuated. Please clarify the reason behind. Since sound financial management is an essence of all expenditure policies we believe that the regulations should set out more in detail what the different authorities will have to pay attention to in case of cohesion policy.	The use of references to the principles of "sound financial management" (Articles 4.8 and 114.1) and "shared management" (Article 63.1) follows the approach taken in the current financial period under Council Regulation (EC) No.1083/2006 (see Article 14.1). It is considered useful to include, where appropriate, a reference to these key principles in the proposed legislation. The draft regulation coversaspects of all three "E" in its various sections (see in particular Titles II and V of the CP, Titles II , II and VI of the GP).
In terms of **financial instruments** there should be clear indication in the Regulation, that all controls and audits carried out by MA, AA, or the EC	As a general principle, the Commission considers that the work of auditors in verifying the legality and regularity of expenditure (or of MA's staff involved in management verifications) should not be limited

(OLAF and ECA as well) should be limited only to holding fund and financial intermediary and will not be done at the final recipient level.	and maintains that including final recipients in the scope of audits or verifications on financial instruments may be necessary, especially if supporting documents are not available at the level of the managing authority or the financial instrument.
Provisions concerning interactions and suspensions create a lot of legal uncertainty for Member States. Many vague terms are used like “serious deficiency”, “serious consequences”, “necessary remedy actions”. What do these mean?	The term "serious deficiency" is used in the CPR in Article 134(a) and (d) about suspensions and in Article 136(a) about financial corrections. The term "significant deficiency" is used in Article 74.1(a) about interruptions and in this case remedial actions are requested by the Commission to remedy the identified problems (Article 74.2). The wording follows the approach adopted by the Council in the current financial period, set out in the Regulation (EC) N° 1083/2006, namely in its Articles 92(1)(a) and 99(1)(a). Article 74.1(b) has been completed compared to the current rules to clarify that an irregularity that can trigger an interruption is an irregularity "having serious financial consequences". The Commission has recognised the need for common criteria to define a "serious deficiency". For the current programming period, it has considered that there is a "serious or significant deficiency in case of non compliance with the general principles and requirements for programme authorities (equivalent to those referred to in Articles 62-63 and 112-116 of the draft regulation). On the basis of these regulatory requirements, general criteria to assess key elements of management and control systems have been set for 2007-2013 programmes and are currently shared between the Commission and Member States audit authorities to assess compliance of management and control systems (cf. COCOF note n° 08/0019/01-EN "Key requirements and assessment criteria for evaluating the level of compliance of each authority involved in the system"). The Commission does not consider that it is necessary or appropriate for these criteria to be part of the CPR.
Suggestion to combine the discussion on interruptions with the discussion on suspensions (Art. 134) and corrections (Art. 77, 135-137), because these instruments constitute a system of sanctions for Cohesion Policy for the years 2014-2020. **Both interruptions and corrections should be instruments of remedying deficiencies in the system, in the use of European Commission**, whereas **corrections in principle should be used by Member States**. **Corrections, irrespective of who imposes them, should not be of the net character** – the amounts cancelled should be reused by Member States until the submission of final closure documents.	Interruptions and suspensions are not a sanction system. Interruption is a preventive tool providing the Member State with sufficient time to take the necessary corrective measures and to report thereon, therefore providing the possibility to address the issues raised by the Commission before it launches formal suspension and /or financial correction procedures. If the Member State has implemented the necessary remedial actions, including, if necessary, by withdrawing identified irregular expenditure, the Member State has the possibility to reuse the expenditure released for other eligible operations within the operational programme. Therefore this is not a sanction but an instrument to ensure that all EU reimbursements are linked to legal and regular expenditure. However, when irregularities are identified by EU audits after the submission of the annual accounts which the Member State has certified as true, fair and accurate, following all audits and verifications carried out up to the submission of accounts, any irregular expenditure identified by the Commission or the

	ECA has a net financial impact. These provisions provide an incentive for effective and timely control mechanisms by the Member States. This constitutes a change to the current programming period which reflects the strengthened assurance process in the Member States in the clearance of accounts, and which enhances the assurance on the legality and regularity of transactions underlying EU reimbursements.
The 95% accumulation limit, 90% reimbursement, the amount and timing of pre-financing, the restriction of reimbursement of major projects before the approval of the Commission are all linked to the sufficient cash-flows and shall be discussed together in order to find a solution which will not put the implementation of projects and programmes at risk and will limits its impact on RALs.	The initial pre-financing will ensure the financing of operations on the ground at the beginning of the implementation period. This pre-financing will have to be cleared at closure. The annual pre-financing paid to Member States aims to offset the 10% retention made on each interim payment (art. 120(1)). The remaining balance due will be paid by the Commission upon annual clearance of accounts. The new provisions mentioned were introduced with the view to ensure the right balance between the adequate cash flow levels for the Member States and the need to strengthen the assurance exercise for the Commission. The rules on pre-financing will provide Member States with sufficient liquidity to make payments to beneficiaries throughout the whole programming period. Please also refer to Annex I on payment flows.
As in the text in some cases the COM refers to “management, control and audit” system (Art. 63. par. 1), we would like to ask whether the **audit is part of the Management and Control system or not**? A clear distinction should be made between checks and controls elated to management and audit, in terms of terminology as well, as was expressed by the ECA-representative at many meetings of the Budget Committee.	Article 63(1) of the CPR refers to management, control and audit obligations" and not to “management, control and audit system". The audit authority is part of the management and control system as in the current programming period. Its work should be carried out taking in account of internationally accepted audit standards The audit terminology used in the draft proposal corresponds to that in use in the current regulatory framework. Such terminology is compatible with international auditing standards.
We would like to ask the Commission to specify which **international audit standard** is the basis. The different systems are quite similar in basics but the devil is in the details. 	As in the current regulation, the Commission does not consider it necessary or appropriate to impose specific international auditing standards. For its own audit work under structural actions, the Commission's audits use as a basis the International Standards of Supreme Audit Institutions (see http://www.issai.org/composite-192.htm), set out by the International Organisation of Supreme Audit Institutions (INTOSAI). As the INTOSAI auditing guidelines make several references to the International Standards on Auditing (ISAs), published by IFAC (see http://www.ifac.org/IAASB/), these are also used for the Commission's audits, where applicable.
It is necessary to unify all the provisions concerning interest throughout the whole regulation; it will request clarification that only interest on late payment is concerned, as art. 112 implies. CZ also suggest imposing of the	Article 112(2) of the CPR states that *"Member States shall prevent, detect and correct irregularities and shall recover amounts unduly paid, together with any interest on late payments.(…)"* This sentence is exactly the same as it is in Article 70(1)b of the current Regulation (EC) N° 1083/2006.

obligation to recover the interest on late payment only for that cases in which this interest is imposed on the national level.	The reference to "interest on late payments" refers to situation foreseen in Article 139(2) of the CPR, which states that *"any delay in effecting repayment [*due to be made to the general budget of the Union] *shall give rise to interest on account of late payment, starting on the due date and ending on the date of actual payment."* This provision is included in chapter II - section II of the CPR which refers to "financial corrections by the Commission". There is no other reference to "interest on late payment" in the CPR since this is a particular case, i.e. it is not to be confused with the other references to "interest" in the CPR. As such there is no purpose in "unifying all the provisions concerning interest".
Article 114-116 – In case we would agree with the principle of annual closure, could a timetable be provided with the different tasks of all authorities?	Please find below a description of different actions following the end of the accounting year up to the submission to the Commission of the annual accounts by the Member States (31/07 =>01/02) : The managing authority completes all necessary verifications on expenditure which has been included in the accounts, and prepares the annual management declaration and accompanying report summarising the control activities of the accounting year and relevant issues. It transmits the draft documents to the certifying authority and audit authority in a timely way. The certifying authority will draw up the annual accounts certifying their completeness, accuracy and veracity and that the expenditure entered in the accounts is in compliance with Union and national rules. Adjustments can be made as a result of management verifications and audit findings before the accounts are finalised and certified. It will transmit the draft accounts to the audit authority. The audit authority will carry out audits on the systems and on operations as in the current programming period. The main change is the reference period for expenditure to be audited, which will correspond to the accounting year. The audit authority may start the audits of operations during the accounting year or draw the sample and carry out the audits only after the accounting year has ended. The audit authority has as an additional element to provide that is an opinion on the completeness, accuracy and veracity of the accounts. For this purpose: • It analyses results from systems audits carried out on the Certifying Authority's systems and procedures for keeping accounts and producing annual accounts • In addition, once the audit authority has received the (draft) certified annual accounts from the certifying authority, the audit authority should perform a desk review of a statistical sample of the required data. Based on the results of this audit of accounts, the certifying authority can adjust its accounts if necessary, and certify them for transmission to the Commission. There is no deadline set in the proposal to send internally (draft) accounts to the audit authority. National

	rules should be set so that accounts be made available to the audit authority sufficiently on time for this review work and the expression of the audit opinion by 1st February of year N+1. Additional explanations on the audit activities are provided for in replies to questions on Art. 75(1).
Common Provision Regulation	
Article 62: General principles of management and control systems	
Article 62 seems to overlap with the provisions of the proposed Regulation on the financing, management and monitoring of the common agricultural policy and of the EAFRD. Is this necessary?	In order to facilitate the implementation of the proposed Regulation on the financing, management and monitoring of the common agricultural policy (COM(2011)628 final/2) by Member States, it includes all necessary rules on the management and control of agricultural expenditure. These rules therefore in part overlap with and complement the CPR, but in substance both sets of rules are fully compatible with each other.
Article 62 - Point e: "*prevention, detection, and correction of irregularities, including fraud, and the recovery of amounts unduly paid, together with any interest*;' Is this another system from the management and control system? Besides that, each M-S has legislated and applies at national level specific systems for the prevention, detection and correction of fraud cases. Those systems cover the needs of the management and control systems set up in the framework of the Structural Funds of the Cohesion Policy. In correspondence with article 112 of the proposed regulation – which refers only to irregularities – we propose that in article 62 there should be no reference to fraud.	The requirement outlined under Article 62 is an integral part of the management and control system. Article 325 TFEU stipulates that the Union and the Member States shall counter fraud and any other illegal activities affecting the financial interests of the Union. Furthermore, under Art. 53 b (2) of the Financial Regulation as amended by Council Regulation 1995/2006 (EC, Euratom), Member States are responsible to prevent and deal with irregularities and fraud in the area of shared management. Regardless of whether the irregularity is non-intentional or intentional (fraud), the affected expenditure must be excluded from co-financing by the EU budget. Fraud prevention measures applied at national level may be well designed and adapted for structural actions. Sometimes there is also a need for additional fraud prevention measures, more targeted to fraud risks specific to co-funded programmes and operations.
It does not seem very appropriate to refer to the prevention, detection and correction of irregularities; including fraud. We believe that irregularities and fraud are completely different concepts as frauds are not a particular type of irregularity. So therefore, we would like to ask if it would not be better to talk about irregularities or fraud?	
Art. 62 (h) ("the prevention, detection and correction of irregularities, including fraud, and the recovery of amounts unduly paid, together with any interest") seems to go further than Art. 58 (h) ("reporting and	

monitoring procedures for irregularities and for the recovery of amounts unduly paid"). Does this mean new requirements to the management and control systems and if yes, we would be interested in more details about them.	
Art. 62 (d) states that management and control systems shall provide for "computerised systems for accounting, for the storage and transmission of financial data and data on indicators, for monitoring and for reporting". Art. 58 (d) only asks for "reliable accounting, monitoring and financial reporting systems in computerised form". Is there a difference between "computerised systems" and "in computerised form"? Are there new requirements to management and control systems? ("storage and transmission of financial data and data on indicators" seems to go further than in the existing regulation).	The legal text proposed is more precise that the text of the current general regulation e.g. by referring specifically to indicators and financial data, rather than "data necessary for monitoring" and specifying that data should not only be collected but also stored (which is already necessary to preserve the audit trail, information necessary for evaluations etc.). The aim is to clarify rather than to change requirements.
Article 63 and 64.5: Complaints procedures	
Article 63.1 states that Fund-specific rules apply. Clarification is sought as to which regulation has priority in cases of doubt / conflict**.** **Article 63.3** states that a procedure for the independent examination and resolution of complaints be established. Clarification is sought on the extent of application of this proposal in relation to the EAFRD fund. The proposal as it stands is more appropriate to large scale projects and not to the funding of multiples of beneficiaries in the farming sector	Part II of the CPR applies to all the CSF Funds except when the relevant Fund-specific Regulation establishes special rules, which derogate from the common provisions, in which case the special rules shall apply. Fund-specific Regulations can establish complementary rules to the common provisions, stemming from Part II. **Article: 63.3:** If a complaint procedure already exists, there should be no increase in the administrative burden. The Member State should simply assess whether this system will comply with the provision. If a procedure does not exist, one should be set up. It is for the Member State to establish the procedure for examination of complaints. The choice of an appropriate body to examine complaints is a matter for the Member State. However, the body examining a complaint should be separate and independent from the body that is the subject of the complaint. There is no obligation to have a single complaint procedure for all Funds and programmes. **Article 65.4** The Commission already deals with a very large number of complaints. The aim of the provision is precisely to ensure that complaints are dealt with, as they should be, at a national or regional level. During the current programming period the Commission has received many complaints concerning
Article: 63.3: **Article 65.4** New requirement could lead to all beneficiaries complaining directly to the Commission, which is against the subsidiary principle and will increase administrative burden for the Members States and, at the same time, misled the beneficiaries	
Article 63 §3 and article 65 §4 – Complaints procedure: When a MS already has a procedure, should we modify it? Could the link between this article and existing legal systems (judiciary) be clarified?	

Does this system exist in any MS? Can we have examples of the kind of national independent body/entity the COM has in mind?	implementation of projects and considers that implementation should also be covered by the complaints procedure. As regards selection of operation, complaints may raise issues such as non-compliance with any applicable procedures for calls for proposals; as regards implementation, the issues will depend on the precise nature of the operation concerned and the conditions fixed in the grant agreement. As clearly stated by Article 63(4), the reporting of complaints to the Commission would only take place "on request". It is not the aim of this provision that reporting is carried out in every case. It could occur, for example, where the Commission has received a complaint on the same facts. A complaint *per se* would not trigger measures by the Commission for interruptions, suspensions or financial corrections. It would only be if the investigation of a complaint produced, for example, evidence of a breach of EU or national law falling under Article 77 (2) that such consequences would follow.
One can support the obligation to establish a procedure of independent examination and resolution of complaints concerning the **selection** of operations, but **not their implementation**, due to the possible delays in implementation which may be result of an isolated negative decision on eligible expenditures disputed/contested by the beneficiary. Is it possible to have separate compliance procedures for given Funds or programmes?	
Please specify this section, what kind of complaints do we talk about, especially when it comes to the implementation of operations, is there anything new required or the treatment of complaints can be continued along the same lines if a Member State has an already established system? Please also explain how this provision would interrelate with Art. 77.2.b) "breach has or could have affected the selection of an operation". Would any such complaint have the possibility to trigger the suspension or interruption of payments or financial corrections by COM?	
CPR Art 63.3 should be clarified: what kind of procedure does COM have in mind here? What does „independent examination" mean? The reporting system to the COM should be clarified too. What are the obligations of the MS in this field? Is it an additional obligation to send internal documents to COM every time a citizen sends complaint about decision-making or implementation? If the citizens complain about the noise of a construction of a project co-financed would that suffice as a complaint during implementation in the meaning of this paragraph?	
CPR Art 65.4: "the Commission may require a Member State to examine a complaint submitted to the Commission concerning the selection or implementation of operations co-financed by the CSF Funds or the functioning of the management and control system." Could the Commission please clarify the conditions for such complaints?	

It is not clear, which body is supposed to implement the procedure of independent examination and resolution of complaints concerning the selection and implementation of operations co-financed by the CSF Funds – could it be the Managing authority?	
How is the new system to be defined? Will this new system / procedure be part of the Management and Control System, or will be outside it?	
In ETC Programme shall there be a body for examination and resolution of complaints in each MS involved in the Programme or one single in the MS of the MA?	Article 63(3) does not require complaint procedures to be programme-specific. For ETC programmes Member States could agree to use complaint procedures applicable for mainstream programmes.
Article 64: Accreditation and coordination	
Is it possible -under art 64.1 - to establish more than one accrediting body, for instance separate for Cohesion Policy Funds and separate for EAFRD and EMFF?	Yes. It is up to the Member State to decide, according to the institutional arrangements, the number of the accrediting bodies and the funds covered by each accrediting body.
About accreditation and coordination, which is the value added of introducing new accreditation requisites, including a new independent body, that heavily increase the administrative burden for Member States facing relevant budgetary constraints?	In accordance with Article 64.1 of the CP, each body responsible for the management and control of expenditure under the CSF Funds shall be accredited by formal decision of an accrediting authority at ministerial level. Accreditation will be granted based on an opinion and report on the fulfillment of the accreditation criteria established by an independent audit body, which can be the audit authority for the programme. The scope of the requested work is similar to that of the compliance assessment body in the 2007-13 programming period. The Commission will define criteria for accreditation in the delegated acts. These accreditation criteria will be common for all programmes. This set-up will accelerate the first interim payments to the programmes. There should not be any overlap of responsibilities between the accrediting authority and audit authority. The accrediting authority oversees the accredited bodies basing itself mainly on the audit reports of the audit authority and has the power to withdraw its accreditation by formal decision if one or more of the accreditation criteria are no longer met. It therefore does not duplicate the work of the audit authority, but draws the consequences from the work of the latter in relation to the accreditation.
Article 64 par. 4 (in combination of article 117 par. 2) 1. Is the accrediting authority play the role of the overseer for the entire programming period? 2. If this is the case and also the audit authority cannot be the accrediting authority then there overlap of responsibilities, given that the audit authority undertakes systemic checks and follows up that corrections are made and therefore secures supervision of the system and compliance with the regulation?	
Article 64 par. 3. 1. Will the “Independent audit body” referred to in this paragraph be a	The independent audit body can be a public body or not. It can also be the audit authority for the programme, in which case according to Article 113§4 it should be a public body.

public body? 2. Could the audit body in paragraph 3 be the same as the audit authority referred to in article 116? 3. Could the Audit authority referred to in Article 116 be the same at the accrediting authority (the minister of Economics is responsible for the audit authority)?	The accrediting body is set at ministerial level and it cannot be the audit authority (see replies above).
Article 64 par. 5. *1.* What would be the relationship of the coordinating body with the rest of the bodies of the Management and Control System (MCS)? What is the gravity of the responsibility it assumes? 2. What is the purpose of another composition of management declarations beyond those provided by the audit authority?	1) The coordinating body can be the same as the accrediting authority and its responsibilities are those mentioned in Article 64(5) of the CPR, i.e. it should *"liaise with and provide information to the Commission, promote the harmonised application of Union rules, establish a synthesis report providing an overview at national level of all management declarations and the audit opinions and coordinate the implementation of remedial actions as regards any deficiencies of a common nature".* The "synthesis report" mentioned in Article 64(5) is the same as the "synthesis report" referred to in Article 75(3) of the CPR (which makes reference to Article 56(5)of the Financial Regulation). 2) Management declarations enhance the overall responsibility and ownership of the managing authorities in their primary control role and thus improve the current assurance model. The audit authority will provide an audit opinion on the accounts certified by the managing / certifying authority, including on the functioning of the systems and the legality and regularity of the underlying transactions, taking into account the management declaration provided by the managing authority.
Article 65 Commission powers and responsibilities	
Reference is made to “metadata” under Article 65.2 sub paragraph 2. A detailed explanation of this reference is required	The reference to metadata exists in the current Regulation (EC) N° 1083/2006 (Article 72(2)). Metadata is "data about data". Metadata describes how, when and by whom a particular set of data was collected, and how the data is formatted. Metadata is essential for understanding information stored in data warehouses and has become increasingly important in XML-based Web applications.
Article 65.2 A clarification is needed as to whether assessment of sound financial management refers to the action being audited or to the whole system.	J1(PL) Article 65(2) refers to "assessment of the sound financial management of operations or programmes", depending on the scope of the audit
Concerning the term “adequate prior notice”, we would like to ask for a clarification, if possible, of the term “adequate”. Are we talking about the	The term "adequate prior notice" refers to Commission's notification to the Member State that an audit will take place in a given date.

procedure itself or about the period of the notification? Giving adequate prior notice" used to be min 10 working days in 1083/2006. We recommend returning to this practice.	The current Regulation (EC) N° 1083/2006 (Article 72(2)) refers to "a minimum of 10 working days' notice, except in urgent cases". The Commissions considers continuing this practice under cohesion policy and the term "adequate" can be viewed in this context.
We support the provision stating that "certain acts will be reserved for agents specifically designated by national legislation…" But we have doubts about the implications of the last part of the paragraph stating that "The Commission shall have access to the information thus obtained". What will then happen if the dossier is subject to secrecy according to national rules? Maybe we should think about introducing some limits to this access.	The provision mentioned (Article 65(2) of the CPR) is an exact quote of Article 72(2) of the current Regulation (EC) N° 1083/2006. As a general principle, the Commission should have access to all information required for the fulfillment of its obligations defined in the Treaty, namely concerning the execution of the Community budget. Member States have a general obligation to co-operate. Any specific cases need to be analyzed on a case-by-case basis.
If the Commission officials or authorised Commission representatives require information not directly related to the implementation of operations supported by the CSF Funds, this can be problematic in the case of those legal persons of private law who are not under this supervision.	The relevant paragraph of Article 65(2) of the CPR states the following: *"Commission officials or authorised Commission representatives, duly empowered to carry out on-the-spot audits, shall have access to all records, documents and metadata, irrespective of the medium in which they are stored, relating to operations supported by the CSF Funds or to management and control systems. Member States shall provide copies of such records, documents and metadata to the Commission upon request."* In general audits focus solely on the operations included in the co-financed programme, but it may be necessary for audit purposes to have a broader view on the activities or accounts of the beneficiary. Hence, this provision allows the possibility of requesting information to all the entities intervening (directly or indirectly) in operations supported by the CSF Funds or in management and control systems. It can for example be necessary to review the overall accounts of a company benefitting from EU support, beyond the accounting of the sole operation being co-funded, to verify the link of this co-funded operation with the overall activity of the entity. Another example is the verification of conditions for State aid to a company, which require a broader audit scope at the beneficiary level than looking solely at the operation supported by the Funds.
Art. 65.2 (responsibilities of the EC) –would it be possible to reformulate Art. 65.2 by clearly defining the [closed list] of conditions when the Commission's on-the-spot audits and checks are necessary, i.e. either the Commission may not rely on the work of the Audit Authority (AA) or the AA reported serious deficiencies in the system. **CPR Art 65.2** „The scope of such audits or checks may include, in particular..." The term "in particular" can be broadly understood. Please be more concrete to increase legal certainty. The proposal says that „without	Given its responsibilities, based on the Treaty for the implementation of the EU budget, the Commission cannot limit its power to audit a given Member State or programme for the purposes of ensuring the correct use of EU Funds. However the Commission makes proposals include provisions to determine the level of its own audit work according to the risks identified, to avoid duplication of controls and to ensure proportionality in terms of control and audit of operational programmes (as referred to in Article 140).

prejudice to audits carried out by Member States, Commission officials or authorised Commission representatives may carry out on-the-spot audits or checks upon giving adequate prior notice."	
CPR Art 65.3 par. 2: there is an overlapping of controls between various national and EU institutions. As the proposal says "the powers set out in this paragraph shall not affect the application of national provisions which reserve certain acts for agents specifically designated by national legislation." Please clarify.	The provision mentioned (Article 65(2) 3rd paragraph of the CPR) is an exact quote of Article 72(2) of the current Regulation (EC) N° 1083/2006.
Article 66: Budget Commitments	
Regarding financial management part in Art. 66 we do not understand the reason behind the changes and we would like to ask what does "**growth and competitiveness reserve**" mean? Can the COM confirm that the reference to a "growth and competitiveness reserve" is a mistake?	The reference to "growth and competitiveness reserve" in Article 66 is an error. This reference will be deleted in the forthcoming corrigendum.
Article 67: Common rules for payment	
Point 3: Please clarify if this sentence also means that advance paid to beneficiaries can also be considered accountable towards the Commission?	No. The aim of this sentence is to clarify that expenditure calculated on the basis of simplified costs is considered to be equivalent to expenditure incurred by the beneficiary for grants based on real costs.
Article 69: Requests for payment	
CPR Art. 69: seems that the regulation sometimes refers to the relevant articles of the Financial Regulation in force currently and sometimes the COM proposal of the recast. Could COM clarify what is referred to here?	There are some cases where cross-references to the "Financial Regulation" are not to the Regulation currently in force (1605/2002) but instead to the Commission proposal (COM(2010)815). This is because no corresponding provision exists in the current Regulation. The forthcoming corrigendum will indicate where these references have been used. Once the new Financial Regulation is adopted, updated references should be introduced.
Article 70: Accumulation of pre-financing and interim payments	
Art. 70, 133 (accumulation of pre-financing and interim payments, payment of the final balance) –please explain the rationale of accumulation of pre-financing and interim payments up to the level of 95% of the total allocation of the programme, which means blocking 5% of the allocation as a final balance.	See Annex I and II.

CPR Art. 70.1: the text does not seem very clear because it mixes multi-annual amounts (e.g. pre-financing) with annual ones (annual balance, not plural). Could COM clarify which pre-financing is referred here, annual or initial? **CPR Art. 70.2**: please clarify whether the remaining 5% is withheld until the final balance payment?	
Article 71: Use of the Euro	
CPR Art. 71: The proposal does not refer to the foreign currency. Could the Commission provide us more information about this issue **Associated remark - CPR Art. 119:** Could COM clarify how exchange rate fluctuations should be taken into account in the case of Member States that have not yet adopted the euro as their currency?	The rules applicable concerning the use of the Euro are unchanged compared to the current programming period. Detailed provisions on the conversion to Euro are set out in Art. 123 of the proposed Regulation.
Article 72: Payment of initial pre-financing	
Under Article 34.3 of the proposed Regulation on the financing, management and monitoring of the common agricultural policy provision is made for accounting for interest earned on pre-financing. However this is not reflected is this regulation. Clarification is sought as to why the regulations are not aligned.	Article 72 sets the general principles on pre-financing common to all funds whilst Article 34 of the Regulation on the financing, management and monitoring of the CAP defines specific rules applicable to EAFRD. Provisions in Article 34.3 on interest generated, which are specific for the EAFRD, already existed in the previous Regulation 1290/2005 on the financing of the CAP.
CPR Art. 72.2: The title of the article only refers to initial pre-financing. Do we therefore understand it correctly that the obligation in par. 2 does not concern annual pre-financing? **CPR Art. 72.2:** Please clarify the goal of Art.72 par. 2. Does this also relate to the annual pre-financing as well?	The rule set-out in Article 72(2) according to which pre-financing should be used only for making payments to beneficiaries in implementing the programmes and made available without delay to the responsible body for this purpose is a general principle common to all the funds which shall also apply to the annual pre-financing amounts which will be paid under the ERDF, ESF and CF pursuant to article 124(2) of the Commission proposal. The reference to the term "initial" in the title of the said article does not put into question the content of the principle but it could be clarified ensure legal certainty and avoid any misinterpretation.
Article 73: Clearance of initial pre-financing	

CPR Art. 73: Could COM clarify what is meant by "at the latest" in this article, how an earlier date can be considered?	It needs to be clarified that clearing of pre-financing is an internal accounting process of the Commission in order to establish the Commission accounts. Clearing of the initial pre-financing will start as soon as the 95% ceiling for interim payments (art. 70) is reached and will last until the whole pre-financing balance is fully cleared (fully justified by declared expenditure), being in some cases only at the time of payment of the final balance.
Article 74: Interruption of the payment deadline	
This Article seems to confer considerable power on the Commission without any obvious redress for a Member State. Under Article 43 of proposed Regulation on the financing, management and monitoring of the common agricultural policy a more detailed procedure is provided. Clarification is sought as to why these articles are not aligned?	Article 43 of the proposed Regulation on the financing, management and monitoring of the common agricultural policy deals only with suspension of payments and not with interruption of payment deadlines.
CPR Art. 74: Furthermore, please clarify if the conditions listed under points a), b) and c) must be fulfilled all together **CPR Art. 74.1a:** Please also determine „significant", "evidence to suggest". The term "information" needs more explanation as in the current regulation "report" is used? We would like to avoid a situation where draft audit reports trigger interruptions, only findings after the usual contradictory procedures should be taken into account here. Why has the maximum period for interruption been extended to 9 months instead of 6?	Conditions a), b) and c) are alternative situations that may lead to an interruption of payment. The current drafting of article 74.1(b) is similar to the one currently in force. Interruption of payments is always accompanied by a clear request to address the issue identified by the authorising officer by delegation, usually within two months, which is the normal timeframe for authorising a payment. The drafting is taken from the existing provisions. The term "information" is linked to a national or Union audit body, it is therefore based on audit evidence. An interruption being a preventive tool to avoid reimbursing irregular expenditure, the Commission should be able to use it as soon as relevant audit information comes to its knowledge. Experience during the current programming period shows that the six month period does not give sufficient time to take all the necessary steps before the moment when a formal suspension procedure has to be launched to resolve the matter with the Member State concerned. The extension of this period to nine months will give additional time to the Commission services to reach a resolution without recourse to a formal suspension decision. Please also refer to other replies.
Concerning point 2, we would like to know who would be responsible for assessing that the necessary measures have been taken and therefore the interruption of payments shall be ended. The authorising officer would be the authority responsible? Which will be the criteria used to take that	It is the authorizing officer by delegation in the Commission services (the director general responsible for the concerned Fund) who decides to lift the interruption based on concrete audit evidence that all the necessary corrective measures requested in the interruption letter were effectively implemented. Interruption of payments is always accompanied by a clear request to address the issue identified by the

decision? What kind of information has to be provided by the managing authority to prove that the measures have been taken? Point b of art. 74 introduces a new cause for the interruption of the payment deadline when the authorising officer by delegation has to carry out additional verifications following information coming to his attention alerting him that expenditure in a request for payment is linked to an irregularity having serious financial consequences.	authorising officer by delegation, usually within two months, which is the normal timeframe for authorising a payment. Article 74.1(b) is not a new cause for interruption as it is already stated in Art. 91 (b) of Reg. 1083/2006 and its drafting has been clarified to indicate that this irregularity has "serious financial consequences" (it does not concern small amounts).
Concerning 1. b) what kind of information are we talking about?	
Proposal to **replace the word may with the word shall in art. 74.2** so that interruption of payment deadline would be always imposed only on the part of expenditure covered by the payment claim that is deficient or irregular. There are **doubts about the provisions of 74.1.c**, according to which interruption of the payment deadline is imposed in case there is a failure to submit one of the documents required under art. 75.1 (the scope of these documents has not been decided yet).	It is not always possible to determine a specific part of the payment claim which is at risk because of deficiencies in management and control systems. Where it is possible to identify a specific part of expenditure at risk, the flexibility provided by the proposal to limit the interruption of the payment deadline to only part of the payment claim can be applied. Documents requested under Article 75.1 aim at reinforcing the Commission's assurance on the legality and regularity of expenditure reimbursed and on the reliability of the management and control systems. In the absence of such documents, there is a lack of assurance, and it is logical to foresee an interruption of payment until the Member States has fulfilled its obligations.
CPR Art. 74.2.b please provide further information regarding the request of payment (as the request of payments are cumulated, "old" irregularities are included as well). Furthermore please give details on handling irregularities.	Assuming that the request refers to Art. 74(1)(b) (74.2.b does not exist), it should be underlined that this provision is very similar to the one existing in the legal framework applicable to the current programming period (art. 91(1)(b) of Regulation (EC) No 1083/2006) and consequently does not introduce significant change in the delivery system. It is Member States', and in particular certifying authorities' responsibility, to ensure that payment applications are always based on verifiable supporting documents and to withdraw from subsequent payment applications and/or from the annual accounts submitted to the Commission, irregularities which have been detected.
Article 75: Submission of information	
Article 75 par. 1. If it assumed that the body in point (d) of paragraph 1 is the same as the one referred to in article 116, the date of submission of the audit opinion is unrealistically short. If the bodies referred to in the two articles are not the same, at what time does the body of article 116 submit its opinion? In any case, the opinion of	The audit authority mentioned in Article 116 is the same as the "designated independent audit body" referred to in Article 75(1)(d) of the CPR. The draft annual management declarations and the draft accounts should be drawn up rapidly following the end of the accounting year (30 June). There is therefore sufficient time for the audit authority to complete

the audit authority must be after the submission of the documents referred to in article 75 par. 1 points (a) through (c) so that the time dedicated to the examination of the rest of the documents, guarantees the quality of the opinion and accompanying report referred to in point (d). Setting specific deadlines is a matter of major importance.	its audit work in order to be able to give its opinion by 1st February of the following year. The final management declaration and certified accounts, to be submitted on 1st February, should take into account the audit findings of the audit authority. The certifying authority will submit on a regular basis an application for payment covering amounts entered in its accounts in the accounting year ended 30 June (Article 126(1)). This will allow the audit authority to take samples throughout the accounting year if it wishes to do so. Alternatively, the audit authority can wait until the end of the accounting year and then take one sample covering expenditure declared for the entire accounting year ended 30 June. It should be noted that systems audits can and should be carried out on a rolling basis throughout the accounting year. The audit of the accounts will, by necessity, only be done after the accounting year has ended. The proposal is based on the current system for auditing, with adjustments in the timing for audit work on operations and new proportional audit arrangements. Audit authorities will organize the audit work (systems audits and audits of operations) over the accounting year, in order to be ready to formulate an audit opinion by the beginning of the following calendar year.
Article 75 par. 1 point (c) must be clarified as to : 1. What audits and controls are included in the summary report of point c? 2. Who writes the summary report?	The summary report mentioned in Article 75(1)(c) is the report that accompanies the annual management declaration as referred to in Article 114.4(e). It sets out the results of verifications carried out by the managing authority, as well weaknesses detected in the management and control system (*inter alia* by way of audit) and any follow up actions taken. Drafting is subject to the final outcome of the negotiations on the Financial Regulation.
There seems to be some duplication/overlap, or at least the creation of *grey zones*, between this article and articles 115 and 116. That can be the case with art. 114.4 e) and articles 116.5 i), for example. Can the COM clarify?	
Article 75 par. 1 point (d) must be clarified. Are the opinion and the accompanying report of point (d) the same as the opinion and accompanying report of article 116 par. 5 point (j)? Article 75 par. 3 - Is the summary report according to article 56 par, 5 the same as the report of article 75 par. 1 point (c) and that of article 114 par. 4? If it is not the same report, what is the exact content of the reports of article 75 and which body undertakes them? What is the purpose of those reports since there are overlaps between them?	Yes, the audit opinion and reports quoted in Articles 75(1)(d) and 116(5) are the same. In case of more than one accredited body, the Commission and the Member State will have at their disposal various management declarations and audit opinions / annual control reports. The purpose of the synthesis report foreseen in Article 75.3 (Article 56.5 of the Commission proposal on the revision of the Financial regulation and Article 64.5) is to provide an overview at national level of such declarations and opinions to promote the harmonised application of Union rules in the Member State, to identify good practices and disseminate them and to coordinate the implementation of remedial actions when deficiencies of a common nature have been identified. This may help the accrediting body to exercise its continuous supervision of accreditation. This synthesis report shall be prepared by a coordinating body designated by the Member State (article 64.5), that can be one of the existing accredited bodies, the accrediting body, or any other public body at national level.

	Article 114(4) refers to a report to be prepared by the managing authority and is to be attached to the management declaration (see replies above and afterwards). It is not the same as the "synthesis report" mentioned in Articles 64(5), 75(1)(c) and 75(3) of the CPR.
Article 77: Financial corrections by the Commission	
How is the application of Article 77 of Common Provisions Regulation foreseen in case of ETC programmes, when a breach of law has been detected in only one Member State participating in the programme? Does it imply that the Commission would interrupt all or part of the Union contribution to the programme as a whole, although no breach of law has been found in other Member State(s)?	A financial correction consists of a cancellation of all or part of the Union contribution to an operational programme and not an interruption of payment. A breach of applicable national law may give rise to a financial correction (Article 77(2)). Article 77(4) specifies that the criteria and procedures are laid down in the Fund-specific rules. Specific rules applicable to the apportionment of liabilities for financial corrections in respect of ETC programmes are set out in the proposed ETC Regulation. Article 7(2)(g)(vi) of the ETC Regulation provides that the implementing provisions for the cooperation programme shall contain *inter alia* "the apportionment of liabilities among the participating Member States in the case of financial corrections imposed by the managing authority or the Commission." A financial correction Decision would be addressed (as is the case for 2007-2013) to all participating Member States and notified to the programme MA. The implementing provisions for the programme would then govern any apportionment in the internal relationship of the participating Member States.
Article 77. In article 77 par 2, point (a). We have many reservations regarding financial corrections due to breach that could have affected the selection of projects (newly introduced in the proposed regulation). How can this be assessed and by whom? What percentage of financial corrections should be applied?	This is not a new basis for financial corrections. The breach of applicable Union or national law that could have affected the selection of an operation may be established for example following an audit examining whether applicable selection criteria have been used in the selection of operations and whether the procedure determined for this process has been followed. If, though this examination, it becomes apparent that project selection has indeed deviated from the applicable criteria and procedure, and this has or could have affected the selection of an operation for support, there are grounds for a financial correction. The level of financial correction depends on the particular circumstances. If the breach of rules has lead to a situation where support has been granted to operations that should have not received it, it is appropriate to exclude these operations from Union co-financing in their entirety. Please also refer to other replies associated with Article 77.
We do have some difficulties with the concept of “punishing a possibility” (art 77.2). In that case, how is the financial correction calculated?	

In accordance with Art.77: The Commission shall make financial corrections by cancelling all or part of the Union contribution to a programme **and** effecting recovery from the Member State. This provision implies that the EC will both cancel the contribution on the respective operational programme and at the same time effect the recovery on the Member state, which would mean imposing of double recourse on the MS. Art.136 par.1 states only that the financial correction shall be made by cancelling all or part of the Union contribution to an operational programme. CZ requests more information on this.	Where a financial correction decision from the Commission corresponds to amounts which have been already unduly paid to a Member State, it is the Commission's responsibility to recover these amounts. The recovery procedure is in this case the accounting transaction which derives from the financial correction, not a sanction imposed on the Member state. The purpose of the proposed provision is only to recall a financial principle which is already applicable under the current programming period. Recovery is not an additional sanction imposed on Member States.
Articles 54 and 66 of the proposed Regulation on the financing, management and monitoring of the common agricultural policy set out in detail the requirements for conformity clearance and penalties. However Article 77 appears to lack the same level of clarification as it appears to be more appropriate to large scale projects. Clarification is sought as to why these articles are not aligned?	Article 77 sets out the common provisions in financial corrections by the Commission for all the CSF Funds. The particular criteria and procedures for each Fund are set out in the Fund-specific rules (Article 77(4)). Article 77 sets out the common provisions in order to ensure a consistent and coordinated approach for all Funds but there are specific features for each policy and Fund.
As regards Art. 77.2 we would like to receive clarification concerning situation that “could have” affected the selection of an operation or the amount of expenditure. Also we believe that with the new system of reimbursements where only payments already paid to beneficiaries can be included in a payment claim the situation in 77.2.b) should explicitly state that such a breach could have an effect if the CA certifies and expenditure connected to the breach. Since until the certification is done the Member State basically pre-finances this expenditure which goes through different layers of checks before certification, therefore if the management and control system works well such an amount will not be certified at all, thus cannot have affect to the EU budget. Please reflect on whether our interpretation is correct.	It is correct that a breach will have a financial impact only when the concerned expenditure is declared to the Commission and ultimately certified in the annual accounts by the Certifying Authority. The expression "could have" is included in the proposal to cover cases, where due to the nature of the breach it is not possible to quantify its financial impact. Therefore the expression "could have" in Article 77(2) of the CPR is also linked to the case mentioned in Article 136(1), last paragraph: *"When it is not possible to quantify precisely the amount of irregular expenditure charged to the Funds, the Commission shall apply a flat rate or extrapolated financial correction*". Such an expression is already reflected in Article 2(7) of Regulation (EC) No 1083/2006 as: *"any infringement of a provision of Community law resulting from an act or omission by an economic operator which <u>has, or would have</u>, the effect of prejudicing the general budget of the European Union by charging an unjustified item of expenditure to the general budget."* A financial correction shall be applied where one of the two conditions set out in art. 77.2 is met.
A clarification is needed on point 2 b) of Art 77 CPR. What is the actual difference between the current definition “any infringement. Which has, or would have, the effect of prejudicing the general budget of the European Union by charging an unjustified item of expenditure to the general	

budget" and "the breach has or could have affected the amount of expenditure declared for reimbursement by the Union budget"?	Commission is open to examine the provisions to ensure unambiguous drafting.
Could the Commission clarify the conditions described in §2?	
In art.77.2, can the Commission explain what the meaning of the two following conditions is: (a) the breach has or could have affected the selection of an operation by the responsible body for support by the CSF Funds; (b) there is a risk that the breach has or could have affected the amount of expenditure declared for reimbursement by the Union budget. with particular reference to the sentence "could have affected" mentioned in both conditions?	
Should Art. 77.2 be treated as definition of irregularities?	A general definition of irregularity is provided in Regulation (EC) No 2988/95 on the protection of the European Communities' financial interest. The term "irregularity" is associated with expenditure at the level of the beneficiary. Article 77.2 sets out the circumstances under which the Commission shall apply financial corrections to Member States. These may relate to irregularities (as defined in Regulation (EC) No 2988/95), but can also relate to other failures by the Member State, such as deficiencies in management and control systems.
Article 79: Exceptions to the decommitment	
Why does the Commission not mention the exceptions in place during the current programmation? (Notably regarding state aids and major projects)	The experience of the current programming period shows that the rules concerning the exceptions to general rules on automatic de-commitment are complex and difficult to apply. It should be noted that these exceptions were developed in circumstances where the general rules on decommitment were different and more stringent than the Commission proposal for 2014-2020. Commission has also proposed an approach as regards the programming of major projects intending to facilitate the planning and implementation of a pipeline of major projects, which has a bearing on the approach taken towards major projects with regard to financial management.

Articles 63 and 112 (E-Cohesion Policy)	
(ETC) Which are the requirements to the electronic data exchange systems regarding ETC programmes? Member States use different software platforms for electronic signature and partners from different Member States, participating jointly in the operations, will not be able to sign one project document jointly.	A fiche on E-Cohesion Policy shall be provided.
We are supportive on the creation of an option to perform electronic exchange of information between the actors in the process of EU funds absorption. The proposed wording doesn't give a full clarity whether this exchange should be only between Beneficiaries, from one side, and the authorities/administrative bodies, from the other side, or should be created opportunity for exchange of information between all the actors: horizontally and vertically?	
When a MS already has a procedure, should a MS modify it? What does happen in "case of force majeure » like a system dysfunction? Who will be able to see what kind of information within the system? How will it be guaranteed that the date of 31 December 2014 is feasible? Could the COM give more information about the financing of e-cohesion? Is the rule that 'beneficiaries need to submit all information only once' applicable to all funds (e.g. when a beneficiary is registered for ESF, the ERDF authorities will need to use the information already sent under ESF)?	
CPR Art 63.4: Could COM please clarify what is to be understood under "all official exchanges of information". Would the SFC be used for all kinds of correspondence currently pursued via e-mail or letters as well?	
Article 62 - Point d: "*computerised systems for accounting, for the storage and transmission of financial data and data on indicators, for monitoring and for reporting*;' There are questions for the technical difficulties that are inherent in the Commission's proposal for the use of "computerised systems for accounting etc". Such a "c*omputerised systems"* creates further burdens especially for small beneficiaries which may not have the needed	Article 62 does not impose any obligations on beneficiaries but refers to Member States' management and control systems that are already in place for the current programming period 2007-2013. A fiche on E-Cohesion Policy shall be provided

infrastructure. Furthermore, issues such as electronic signature have not been settled yet, strengthening our reservations regarding the mandatory implementation of such a proposal. The existence of only one system applicable to all and all functions undertaken electronically creates difficulties.	
Article 112: (other subjects)	
CPR Art 112.2 says that "when amounts unduly paid to a beneficiary cannot be recovered and this is as a result of fault or negligence on the part of a Member State, the Member State shall be responsible for reimbursing the amounts concerned to the general budget of the Union." We are asking the Commission to provide an explanation on the concept of fault or negligence.	Fault or negligence on the part of a Member State is established when the irregular amount becomes irrecoverable due to late (or absence of) initiation by the responsible administration at Member State level of any administrative and legal measures necessary according to national law to recover the unduly paid amounts.
Article 113 Designation of authorities	
What is adequate separation of certification functions set in the art 115 in case Managing Authority carries out also functions of Certifying Authority? Adequate separation of functions is not demanded by the regulation but it was emphasised by the Commission during the SAWP meeting. If in 2014+ period Managing Authority carries out also functions of Certifying Authority, how is the two years of overlapping foreseen? Do Member State need to keep two separate Certifying Authorities in order to assure the separation of duties required programming period 2007-2013?	The proposed architecture of the management and control system for 2014-2020 leaves the existing set-up essentially unchanged offering the flexibility to keep the current system when it has been shown to be effective. Another option is to merge the managing and certifying authorities, thus decreasing the number of authorities involved where this is considered to provide an effective control system. If the option of Article 113(3) is used, the minimum requirement of separation of operational functions within the managing authority should be ensured. In practical terms it should be a separation between the tasks of selecting and approving operations, of approving payments to the beneficiaries, of preparing payment claims to the Commission, and of certifying the payment claim.
In case the managing authority is also carrying out the functions of the certifying authority, is there still a need to have division of functions between them within the same organisation?	The Member States do not need to keep two separate certifying authorities over the transition period. If the certifying authority responsible for the 2007-13 is merged with the managing authority of 2014-2020, it should continue to carry out its tasks for the 2007-13 and in particular to prepare the closure of the 2007-13 period and certify expenditure for the programmes of 2007-2013.. For the 2007-2013 period, the certifying authority may be within the same body as the managing authority if the separation of operational functions is ensured.
Is there any analysis to show that the countries where Audit Authority is part of the same public body as Managing Authority have more systemic irregularities than countries where a separate public authority is created for Audit Authority?	
Article 113 par. 5. Why should the restriction of the last sentence be applied when through the rest of the regulation the operative independence of the	The essential is that the audit authority and bodies carry out their audit work in an independent and professional way. However the independence of the audit authority is greater when it is not part of the same public body as the managing / certifying authority. The €250 million threshold is referring to the support from the Fund to an operational programme (EU contribution). For programmes where the EU

audit authority is secured? **Article 113§5 – audit authority:** Could the Commission give more information about the « 250 millions Euros » limit? Does it refer to the total amount or to the European intervention? In art.113.5, does the Commission consider that the various authorities can be within the same Regional or central body, although in functionally separated departments?	funding is more than €250 million the audit authority cannot be part of the same public authority or body as the managing and certifying authorities. This is a change compared to the rules in place in 2007-2013 and stems from circumstances encountered where audit bodies have had insufficient independence.
Article 113 §6 – audit authority: Could the Commission explain why the audit authority can not delegate any tasks? Under the current period Delegated Audit Bodies (DAB) that perform some of the powers of Audit Authority are part of the organisation of the line ministry or regional council that perform also the powers of the Managing Authority. However, the DABs are supervised only by the AA and are fully independent from the MAs. In accordance with the draft Art.113 par. 5, of the operational programmes for which the total amount of support from the Funds exceeds EUR 250 000 000, the audit authority should not be part of the same public authority or public body as the managing authority. It is not clear, if this provision can be applied in relation to the organisation of Delegated Audit Bodies under the supervision of the Audit Authority as well or whether the organisation of the DABs as it stands now would be in compliance with Art. 113 in the next period.	The audit authority, as in the current programming period, has to ensure that audits are carried out. Depending on the control system, these audits can be carried out by the audit authority itself of by other audit bodies that have the necessary expertise and independence. The audit authority remains responsible to draw up an audit strategy at the beginning of the period (Article 116) and an annual audit opinion on the annual accounts based on all audit results (Article 116.5 and 75.1(d)). The audit authority for programmes with an EU support above €250 million cannot be part of the same public body as the managing authority. In addition, where audits are carried out by other audit bodies than the audit authority, the latter has to ensure that "any such body has the necessary functional independence" (Article 116.2). As a corollary of this provision, the audit bodies (working under the supervision of the audit authority) cannot be part of the same public body as the managing authority.
How should the term “global grant” be understood as referred in art. 113.7? Is there any connection between global grant and Integrated Territorial Investment formula engaging cities as intermediary bodies (the link may be suggested when analyzing art. 37.6a of 1083/2006 Regulation)?	The term "global grant" refers to any delegation of management tasks associated with a clearly defined part of one or more operational programmes to an intermediate body. The specificity of Integrated Territorial Investment is that it concerns a territorial strategy and involves investments under more than one priority axis. Therefore it represents a specific type of intervention and

	delegation.
CPR Art 113.7 the bodies managing global grants are called intermediate bodies whereas their tasks are not exactly the same as those of the IBs' managing ordinary grants. We recommend renaming the bodies managing global grants in order to avoid confusions.	
In Art.113 par. 7, the concept of global grant is defined as a special form of an operational programme part management by an intermediate body. However, it is not clear what the difference between this intermediate body and the ordinary ones is and why these two categories are distinguished at all?	
What is the difference between the two paragraphs because they seem the same?)	
CPR Art 113.5 the provision on separation of function under a certain limit (EUR 250 000 000) seems to be too low, we suggest raising it.	Approximately 50% of the operational programmes in the current programming period are under the threshold of EUR 250 million. Therefore the threshold is considered appropriate.
Article 114: Functions of the Managing Authority	
Article: 114.3 (c) and (d): is this not overregulation?	These provisions are derived from Article 13 (1) of Commission regulation 1828/2006, which requires the managing authority to ensure that beneficiaries are informed of the conditions of support and have the capacity to fulfill these. The proposal now clarifies that the managing authority shall inform the beneficiaries by providing them with a document referred to under 3 (c) to make sure that all beneficiaries indeed have all necessary information.
Article 114 §3 a – Selection procedures: How does this work in practice? Does it need to be proven by the managing authorities and how could that be done?	Article 114(3) (a) states that the managing authority should draw up and apply selection procedures which are non-discriminatory and transparent, and take into account the general principles of sustainable development, equal opportunities and non-discrimination. Transparency of selection criteria and procedures entails that all stakeholders (including the applicants) can obtain information on the procedures and criteria applied. It also means that they facilitate project selection in a transparent way (e.g. there is a clear system of scoring) and that it is possible to ascertain retrospectively, why an application was accepted or rejected i.e. records of the selection process are produced and retained. The horizontal principles should be mainstreamed into the delivery of the operational programmes. The Member State will outline in its operational programmes, in accordance with Article 87 (3), how these principles will be taken into account in project selection. The project selection procedures and criteria

	should be consistent with what has been agreed in the relevant operational programme.
CPR Art 114.3.b: Could COM clarify what is meant by this provision? Does this mean that the scope articles as well as categories of intervention do form a basis for determining eligibility of expenditure that can be supported under a priority axis? If this is the case this provision should be dealt with in more detail in Articles 55-60 as well.	The operational programme forms the basis for the delivery of Cohesion Policy in a Member State, therefore the implementation should not depart from the content of the operational programme. The categories of intervention reflect the content of the interventions planned and are an integral part of the operational programme. Hence any operation selected should fall under a category included in the operational programme for a given priority axis. However this applies to the operation as a whole and the nature of the main activities, not individual items of expenditure. Example: A construction of a new waste water plant may include expenditure on information systems or software, but the operation can still be classified (as a whole) under the category pertaining to waste water treatment.
Article 114 §3.d – Managing authority: How a MS can ensure that a beneficiary satisfies conditions described in the point 3c?	There are several ways of achieving this. One of the ways to ensure that the beneficiary has the necessary administrative, financial and operational capacity is to integrate these elements into the project selection criteria and procedures. It should be ensured that the beneficiary has the competencies, the financing and any other potential resources necessary to implement the operation.
CPR Art 114.3.f: Could COM confirm that in line with state aid rules the relocation within the same region would not be subject to a procedure of recovery? Would the relocation within the same Member State have to be a subject to recovery? Please clarify!	Relocation is linked to the provisions set out in Article 61. Relocation within the programme area would not trigger a recovery. Relocation to a new location outside the programme area (even in same Member State) can constitute a breach of Article 61 and lead to a recovery. Please note that state aid rules may also limit relocation and apply independently from Article 61.
CPR Art 114.4.c: We do not understand clearly what the referred anti-fraud measures mean. Please clarify.	Fraud prevention and detection is part of the management and control system, and all programme managers should be aware of fraud risks. Managing authorities should have in place specific, effective and proportionate anti-fraud measures to tackle the identified risks, following a fraud risk assessment. These anti-fraud measures should be proportionate to the level of fraud risk. The higher the risk, the more robust measures should be adopted in order to protect the financial interests of the EU. It may also come out from such a fraud-proofing exercise that the existing measures in place are deemed sufficient to mitigate the low level of risk identified. This provision will help programme authorities to better link anti-fraud activities at Member State level to the management and control systems for EU-co-funded programmes. The Commission will produce guidance on the fraud risk assessment and on proportionate anti-fraud measures, as part of its fraud prevention strategy for the whole EU budget.
Article 114 – par. 4 – point e: *"draw up the management declaration of assurance on the functioning of…;"* Why should the Managing Authority elaborate such a declaration since the	As set out Article 114(4) the "management declaration of assurance" concerns the functioning of the management and control system, the legality and regularity of underlying transactions and the respect of the principle of sound financial management. Where a separate certifying authority is set up which certifies the completeness, accuracy and veracity of annual accounts, the management declaration does not

Certification Authority makes a similar declaration? 1. It should be confirmed that this report includes only the control/verification results of the Managing Authorities. 2. It is identical with the report mentioned in art. 75(1)d.	need to cover the element of annual accounts. Article 114(4) refers to a report to be prepared by the managing authority *"setting out the results of management controls carried out, any weaknesses identified in the management and control system and any corrective action taken"*. Therefore this report refers both to the results of the verifications carried out by the managing authority. the weaknesses (in the management and control systems) detected by the audit authority and follow up actions undertaken in this regard. The report to be submitted together with the management declaration of assurance is not the same as the "control report" to be attached to the audit opinion mentioned in Article 75(1)(d), which refers to the work of the audit authority.
Article 115: Functions of the Certifying Authority	
CPR Art 115.h: The last sentence does not form a function to be carried out by the CA. This issue should be dealt with in the financial management articles. In any case the term "statement of expenditure" should be aligned with other expressions such as "payment claim", "application for payment" etc. used throughout the regulation.	It is Commission's view that the tasks referred to in Art. 115(h) fall under the responsibility of the certifying authority as in the current programming period. The Commission is ready to work with the legislative authority in order to ensure that the terms "statement of expenditure/payment claim/applications for payment" are clarified throughout the Regulation.
Art.115 Art.115 d) Additional information is sought on the level of detail of the requested data.	The level of detail on the data requested by Article 115(d) will be defined in the delegated acts and will be similar to the requirements in the current system (regulation 1828/2006 as modified).
Article 116: Functions of the Audit Authority	
Article 116 – par. 1: *''…on the annual accounts'':* A) Are controls to the annual accounts considered the ones of the closure procedures, as described in Regulation 1828/06? Which is the content of those controls? B) Are those going to be on the spot controls?	Annual accounts are not a requirement in the 2007-2013 framework therefore audits of such accounts do are not carried out in the current programming period. The audit authority will have an additional element to provide that is an opinion on the completeness, accuracy and veracity of the accounts. For this purpose it will audit, inter alia, the underlying accounting records relating to expenditure declared, reimbursements, recoveries and withdrawals.
Article 116 – par 4: The differentiation of the deadline for submitting the audit strategy from the deadline for submitting the accreditation decision is a matter of strategic importance, since the strategy deadline is put first.	The deadline for preparation of the audit strategy and for submission of the accreditation decision to the Commission is the same, within 6 months of the adoption of the operational programme. (Art 116.4 & art 117.3). The audit strategy is prepared in parallel to the accreditation decision (and is submitted to the Commission only upon request), but is defined by the audit authority, which is not itself subject to the

The congruence of the two deadlines makes the implementation of the strategy unattainable.	accreditation procedure. When defining its audit strategy, the audit authority may be aware of the risk that certain authorities would not be accredited. Audit authority should take such elements into account in its audit strategy.
Article 116 – par. 5: 1. With the reservation of art. 75, under which deadlines are those documents elaborated? 2. Which is considered as *''preceding accounting year''* (i.e. of year N-1 or of year N-2, as related to the deadline of February of year N)?	The audit opinion mentioned in Article 116(5) is to be submitted by the deadline set out in Article 75 (1 February). According to the Article 2(23) of the Commission proposal, the '*accounting year*' means the period from 1 July to 30 June, except for the first accounting year, in respect of which it means the period from starting date for eligibility of expenditure until 30 June 2015. The final accounting year will be from 1 July 2022 to 30 June 2023. Therefore, at 1 February when delivering its audit opinion, the "preceding accounting year" is the accounting year that ended on 30 June of the previous calendar year.
116.5 Where a common management and control system applies to more than one operational programme, a single audit strategy may be prepared for the operational programmes concerned. **Does this provision also apply in cases where operational programmes refer to regions of different categories?**	The provisions set out in Article 116 (4 and 5) foresee proportional control arrangements to avoid unnecessary administrative burden to the Member States' Audit Authorities. If there is a common management and control system covering different regions, there can be a single audit strategy.
CPR Art 116.2: We do not understand clearly what COM means under „the necessary functional independence". Could the Commission please clarify it?	See replies to questions on Articles 113.5 and 113.6 The expression "the necessary functional independence" is already present in the current Regulation (EC) N° 1083/2006 (Article 62(3)). It means that the audit body(ies), working under the supervision of the audit authority to carry out the audits foreseen in Article 116, should be independent in its functions from the bodies or persons that it audits, in order to prevent any conflict of interests or undue limitations to the auditor's work that may occur if his/her hierarchy has also functions related with the operational or financial management of the funds.
Article 117: Accreditation and withdrawal of accreditation	
Article 117 – paragraph 2: Can the "independent audit body" be the "audit authority" stated in article 116?	Yes, the independent audit body can be the audit authority for the programme.
Article 118: Cooperation with audit authorities	
CPR Art 118: Cooperation should include articulation of audit plans in order to avoid double control by different bodies, as a principle (see article 65 above). Please clarify how this can be ensured? We do not understand clearly what "immediately exchange the results" mean. Could the Commission please describe the procedure.	The requirement in this article, including the expression "immediately exchange the results", is already present in the current Regulation (EC) N° 1083/2006 (Article 73(1)). It means that the results of the Commissions or Member State's audits should be transmitted and exchanged between these two parties as soon as they are available, preferably in the form of an audit report. As is the general practice in the current programming period, audit coordination is ensured through annual

	or ad hoc coordination meetings between the Commission and the audit authority to co-ordinate the audit plans (Article 118.3) and to discuss transmitted audit results.
Art. 118/2 – in regard to designation of authorities at the national level, the relationship between the coordinating body under Art. 118 par. 2 and the coordinating body art. 64 par. 5 is not clear .Could it be two or more separate bodies? Or is it up to the Member State to divide duties among two or more relevant bodies?	It is up to the Member State to decide on the set-up of these non compulsory co-ordination bodies. The coordination body mentioned in Article 118(2) of the CPR refers to a body that may be designated by the Member State (not compulsory) to help in the cooperation with the Commission as regards the work of the audit authorities in that Member State. This is particularly the case for decentralized Member States, where there are many audit authorities at regional level. The coordination body foreseen in Article 64(5) of the CPR, which is not compulsory, has a wider scope of intervention since its responsibility is "to liaise with and provide information to the Commission, promote the harmonised application of Union rules, establish a synthesis report providing an overview at national level of all management declarations and the audit opinions and coordinate the implementation of remedial actions as regards any deficiencies of a common nature".
To economise human resources EC will base its audits on a risk based system avoiding double auditing in member state whose auditing systems is functioning satisfactory. How will EC establish if a member state's auditing system is functioning satisfactory? What criteria will be used? Member states error rate?	Article 140 (§ 2 to 4) of the CPR sets out the criteria requested.
Article 120: Calculation of payments	
Art. 120.1 (reimbursement 90% of interim payments) –What is the reason for limiting reimbursement to 90% of the amount resulting from applying the co-financing rate to the eligible expenditures included in the payment application.	The 10% retention should be understood as a precautionary measure for the Commission. It can only reimburse 100% of expenditure claimed by Member States for a given accounting year once it has obtained full assurance on the legality and regularity of this expenditure, that is, after the certification of annual accounts and the provision of a management declaration and of an audit opinion. Please also refer to Annex I.
Could the Commission explain the link between the reimbursement of 90 % and the error rate?	
CPR Art. 120: Please present a detailed Note on the whole system of annual clearance of accounts and as well on the payment system (including initial and annual pre-financing, interim payments, annual balances, etc.) to understand the new calculation methods and the impact of the new rule. Please clarify about the link between this 90% and the 95% of article 70 and the link with annual pre-financing.	Please refer to Annexes I and II

Article 121 Payment applications	
Could the EC explain (may be on the basis of some examples) the difference of the data to be submitted in a payment application in relation to letter (b) resp. (c) of this article?	Please refer to Annexes I and II.
There is the need to explain in writing the rationale and real meaning of position a), b) and c) of art. 121.1 (practical examples).	Please refer to Annexes I and II
Why does the EC exclude this possibility (for major projects)?	The possibility to declare expenditure to the Commission for major projects not yet approved by the Commission was introduced as a part of the economic recovery package. However, Commissions assessment of major projects provides limited added value if the implementation of the major project under examination has started. Major projects should be examined and approved by the Commission prior to the start of their implementation and expenditure would therefore arise and be declared after the approval decision.
We consider that the present provisions for reimbursements in the case of state aid regimes should be kept. We would like further explanation from the COM.	In its analysis of the reliability of the Commission accounts (DAS), the Court of Auditors has repeatedly expressed concerns about this rule allowing to present advances in State aid regimes as eligible expenditure and the risk that it can represent for the protection of Union's financial interests. The Commission has consequently decided to exclude this possibility. Member States may pay advances but cannot declare these as expenditure to the Commission.
There is a need for linked discussion on art. 121.2 and art. 67.3, in the context of amount that shall be included in payment application as far as simplified cost method are applied. In these two articles different wording is used: ▪ Art. 121.2 is as follows: „(…)For such forms of support [Article 57(1)(b), (c) and (d)], the amounts included in a payment application shall be the costs reimbursed to the beneficiary by the managing authority." ▪ Art. 67.3 is as follows: " For forms of support under Article 57(1)(b), (c) and (d), the amounts paid to the beneficiary shall be regarded as eligible expenditure." These two articles should be modified in the context of flat rates and standard scale unit cost. Art.67.3 wrongly indicates the amount of payment as being equivalent to eligible expenditure.	The intention of the Commission is not to exclude the possibility for the total costs of operations, where simplified costs are used, to be declared in payment applications to the Commission. Commission is open to re-examine the drafting of Articles 121.2 and 67.3.

Flat rates and unit costs are the methods to determine the total amount of expenditure, not payments. Payments shall be made in relation to calculated expenditure. Therefore, the amount of expenditure calculated (by one of simplified costs methods), not the amount paid to the beneficiary, shall be considered as eligible expenditure and included in payment application. For lump sum, as the method not directly connected with calculating expenditure, the EC proposal seems to be sufficient.	
CPR Art. 121.1.c: Please clarify the necessity to introduce this? **CPR Art. 121.1.a:** is it correct regarding financial instruments? Transfers from MA to financial intermediate are not considered eligible for reimbursement, just the money invested in companies? **CPR Art. 121.2:** the application of such provision to the Joint Action Plans is not clear, mainly if the beneficiary is not the final recipient of the money.	Please refer to Annexes I and II on the first question. For financial instruments the provisions regarding the expenditure included in the payment declaration are those contained in Article 35. The reference to beneficiaries receiving the payment is correct also in the case of Joint Action Plans. Please also refer to the replies above.
Article 122: Payment to beneficiaries	
This article will substitute article 80 of the current Regulation 1083/2006, which are the practical effects of the inclusion of the corresponding expenditure in the payment application"? Will it imply that the Member State must pay the public support to the beneficiary before including that public support in a payment application?	Please refer to Annexes I and II.
Do the combined provisions set out in art. 121.1.c and 126.1 entail the obligation of submitting an application for payment by the CA only after the public support has been paid to beneficiaries, postponing the submission of the application for payment in respect to the current period where the deadline is the date when the payment has been actually incurred by the beneficiary.	
What is the intention of Art. 122 CPR? How to interpret "as quickly as possible" and whether this could be fulfilled in the case of irregularities?	The intention of this provision, similar to the one covering the current programming period (art. 80 of Regulation (EC) No 1083/2006) is to ensure that beneficiaries from the funds receive the public support (including the contribution from the funds) due to them without any unjustified delay, which is without prejudice to the obligation to carry out the appropriate administrative verifications and controls. The innovation introduced by the draft proposal is that the public support due to beneficiaries must have been paid in any event before the inclusion of the corresponding expenditure in a payment application to the

	Commission.
Article 123: Use of the Euro	
Why does this article refer to the Managing Authority, not the Certifying Authority? The exchange rate should be fixed in the month during which the expenditure was registered in the accounts of the **Certifying Authority**, as it is the case for the current period 2007-2013. The proposed shift to the managing authority will cause essential changes in the administrative procedures and information systems, e.g. the amounts recovered should be registered by the managing authority to fix the exchange rate. The modification of these established procedures for the new period is considered as unnecessary and requiring additional financial and administrative resources, therefore CZ proposes retaining the procedures applicable under the current period.	The Commission takes note of that the exchange rate should be fixed in the month during which the expenditure was registered in the accounts of the certifying authority or the managing authority, where functions of these authorities have been merged. Adjustment of the drafting of Article 123 can be considered.
Article 128: Content of the annual accounts	
5% provision in the annual accounts. How the provisions exceeding the 5% should be treated? Should those sums be treated as withdrawals/ recoveries although du?ring compiling annual account it is not sure whether the sums are eligible or not?	The (maximum of) 5% provision is foreseen for expenditure relating to open audit findings awaiting finalisation of the contradictory procedures between the managing authority and the audit authority before the submission of the annual accounts, for each priority axis. This provision is taken into account in the certified annual accounts for the concerned accounting year and therefore in the clearance of accounts but is deducted from the payment of the annual balance (Article 130.4 of the CPR). An additional year is considered to be sufficient to complete the contradictory procedures and to ascertain whether expenditure is eligible or not. Amounts falling under this provision should therefore be definitively included in or excluded from the annual accounts of the following year.
Article 133: Submission of documents	
CPR Art. 133: We have serious reservations concerning this article as the period available for preparing the documents would not be enough. Could COM clarify how it believes the last year and the final submission of documents should be treated?	Please refer to Annexes I and II
What is the reasoning for shortening this period (for the submission of closure documents)?	Please refer to Annexes I and II The last accounting year covers the period 1 July 2022 to June 2023. However, the deadline of 30 September 2023 set in Article 133 will allow 9 months for Member States to prepare the final closure documents, which will cover expenditure incurred by beneficiaries before the end of the eligibility period, i.e. 31/12/2022. It should be also recalled that the closure exercise will be simplified compared to the

	2007/13 programming period, since the national authorities will not have to provide a closure declaration (winding-up) covering the entire programming period but only the documents referred to in Art. 75(1) for the final accounting year (art. 133).
Article 134: Suspension of payments	
Proposals to delete art.134.1 d, because conditions it indicates are included in 134.1.**a** of this article. **Please indicate that clear criteria, which should be met to end the suspension are set each time the suspension is used** (criteria may possibly be set in the implementing act mentioned in the art 134.2) **Suspension may be imposed in case of not achieving the milestones set in performance framework** - the suspension of payment deadline means in this case, that Member state will not be able to achieve final values of milestones. **Provisions of art 134.1.e and art 17.5 are not consistent in the context of ex-ante conditionalities**. Art 134 indicates that payments are suspended when Member State has failed to undertake actions to fulfill the ex-ante conditionality, whereas art. 17.5 gives the Commission the right to suspend payments at the stage of adopting the programme. **PL draws the attention to the mistake in art. 134.1 g)** consisting in the referring to wrong article – it should be article 21(5)	The points (a) and (d) of Article 134(1) are not identical. The Commission decision would suspend all or part of the interim payments based on an assessment of all the facts presented to it. It is agreed that the actions necessary to end the suspension should be clear. These are always described in the Commission decision (and previously in the contradictory correspondence with the Member State). Article 134(1)(f). The suspension of payments does not stop the Member State from implementing the programme to attain the milestones set out in the performance framework. In any case, there is no reason for suspension in circumstances where the Member State undertakes the measures necessary to achieve the final targets. The provisions of Article 134(1)(e) and 17(5) are consistent. The possibility of suspension on the basis of failure to fulfill *ex ante* conditionalities exists both at the moment of adoption of the programme and subsequently where actions to fulfill ex-ante conditionalities are not taken. The error referred to in Article 134(1)(g) will be corrected by the proposed corrigendum.
Article 134 – Suspension of payments Could the Commission explain the reference in point g (art. 20 §5)? How will be decided when there is a case of 'serious deficiency' or when 'MS have failed to take action'?	The reference to Article 20(5) is incorrect - it will be corrected by the forthcoming corrigendum.
CPR Art. 134: Could COM explain why the current wording applied in 1083/2006 as regards point 1.(a) "which affects the reliability of the procedure for certification of payments..." is deleted? As regards point h) a clarification of the concept is necessary as Art 134. relates to interim payments whereas Art. 21.6. relates to all payments or commitments. Do we understand it correctly that the suspension does not affect the payment of the initial pre-financing, and if annuality is introduced, the payment of the annual pre-financing and the payment of the annual balance?	As regard the content of Art. 134(1)(a), the reference to a "serious deficiency in the management and control system for which corrective measures have not been taken" is self explanatory and sufficiently detailed to describe the circumstances under which a suspension decision could be taken. In the future the system will comprise both certification of interim payment applications and the submission of annual accounts, with supporting documents. All the categories foreseen in article 134 (a) to (g) relate to the suspension of "*all or part of interim payments*". Initial and annual pre-financing are consequently not covered. Nevertheless, in case of a suspension, the Commission will not be in a position to pay any annual balance resulting from the clearance of accounts, since as foreseen in article 130(2), such an annual balance is "*to be added to the*

As regards par. 3 could COM clarify what is meant under "necessary measures to enable the suspension"?	*next interim payment made by the Commission following the clearance of accounts*". The powers conferred to the Commission under art. 21(6) and 134(h) to suspend both commitments and payments are of another nature given that they derive directly from the provisions from the Treaty aiming to fight against excessive deficits in the Member states. Please also refer to the replies above.
Article 135 Financial corrections by Member States	
Do we understand correctly that during 2007-13 period and also during 2014-20 period Member State may declare to the Commission as irrecoverable those irregular sums which are so small that it would be more costly to recover them?	Member States are obliged to pursue all recoveries, even if the amounts are very small. Experience of treating reported irregularities has however shown that the administrative burden for both the Member States and the Commission can be disproportionate to the risk involved in particular for very small amounts. The Commission is open to offer Member States the possibility to present in the annual statements on 31 March, as a reason for an amount not being recoverable, the disproportionate costs of recovery for very all amounts. In case the Commission does not share this view, it has one year to let the Member State know of its decision. The Commission is open to examine options to provide more clarity on these arrangements for 2014-2020.
COM indicated that the EC already now accepts "non-recovering" in the case of "cost-non-effectiveness". Could the EC elaborate this approach a bit more in detail?	
Article 135 §2 – Financial corrections: Does the co-financing part fall under the 'public contribution' as well?	Yes. The financial management system does not distinguish between EU funds and public support coming from national and regional sources.
There is a need of precise definition of systemic irregularity, indicated in art 135.4, so that this paragraph is not a reason of discretion in interpretation of this article.	The drafting of Article 135.4 is similar to the one under the existing regulation 1083/2006 (Article 98.3). A systemic irregularity is an error that is repeated in a group of operations due to the existence of serious deficiencies in (part of) the management and control systems and thus leading to the declaration of irregular expenditure to the Commission. See also replies on Article 77. The concept of systemic irregularity has been clarified in the Commission 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 1083/2006.
Contrary to Council Regulation (EC) No 1083/2006, the draft regulation lacks the definition of an irregularity. We suggest a **systemic irregularity** definition as well. In par.1 there is stated that in the case of a systemic irregularity, the Member State shall extend its investigation to cover all operations potentially affected.	
Article 136: Criteria for financial corrections	
We are againts financial correction in relation to the performance	

framework. The Commission and the MS should work together and failure to achieve targets is a common responsibility, especially given that the Commission will have the power to suspend payments in case of underperformance in line with art 20.3. (Proposal for Slimming down No. 82).	Article 20 outlines one of the main elements underpinning the result oriented approach to cohesion policy. Member States are well placed to ensure that targets set are indeed achieved by the end of the programming period. • The performance framework shall be set out by the Member State in consultation with the Commission and should include realistic milestones and targets. • The mechanism of performance review has been proposed as an "early warning mechanism" to facilitate timely adjustment of interventions by the Member States to achieve the targets set. The possibility for suspension of payments is linked with this mechanism and is not a sanction nor a correction, but a preventive tool to ensure that timely measures are taken to ensure effective implementation of the programme. Financial corrections may be applied only where "the Commission established a serious failure to achieve the targets set in the performance framework". This refers to a situation where funding has been spent, but there is a serious shortfall from targets. Given the preventive mechanisms in place Member States have extensive opportunities to avoid the risk of a financial correction being applied. A delegated act shall be prepared to establish the criteria and the methodology to determine the financial corrections to be applied. The performance reserve has been proposed as a positive incentive and failure to obtain this reserve would not constitute a financial correction or a sanction.
The MS is already penalized by not acquiring the performance reserve. MS should not be additionally sanctioned for not spending the allocated amounts as well.	
CPR Art. 136: The reference to Art. 77 need to be clarified. Do we understand correctly that the provisions set out in a)-c) of par 1 of Art. 136 only trigger a correction if they relate to a breach in one of the cases set out in Art.77.2?	In the context of breaches of EU or national law, Article 77.2 sets out the conditions under which breaches shall lead to a financial correction decision. However financial corrections can be applied also in other cases such as the non-respect of the additionality requirements and a serious failure to reach the targets set out in the performance framework.
Article 136 §1 – Criteria for financial corrections: What is meant by 'if it is not possible to quantify precisely the amount of irregular expenditure'?	The financial impact of an irregularity is quantifiable precisely when it is possible, on the basis of an examination of all concerned individual cases, to calculate the exact amount of expenditure wrongly declared to the Commission.
Article 136 §5 – Criteria for financial corrections: Could the scope of art.86 be clarified, does it apply to most developed regions as well?	The criteria for establishing the level of financial corrections will be defined in the delegated acts. These criteria will be applicable to all operational programmes.

In art.136.3, why the current wording of art.99.4 of Gen.Reg. 1083/06 – i.e. “facts established by auditors” - is not confirmed (instead of the proposed wording “reports of auditors”)?	The drafting of article 136.4 of the CPR is clarified compared to the wording of Article 99.4 of the current regulation. The reference to "audit reports" instead of "facts established by auditors" means that when the Commission bases itself on facts established by other auditors to launch any request for corrective action, it must have received a formal audit report from those auditors. This is in line with auditing standards.
CPR Art. 137.6: We are against any net corrections that reduce the allocations to a given Member State before the final closure of the implementation period.	These provisions apply to irregularities which affect the annual accounts sent to the Commission i.e. to amounts for which the Member State authorities have submitted a management declaration and an audit opinion and which therefore should also have been subject to thorough national controls. Where the Member State has given full assurance of the eligibility of expenditure, but nonetheless errors are detected by the Commission or the Court of Auditors, there are grounds for a net correction. This approach is also compatible with the annualisation of the assurance process. No special audit activity or a winding-up declaration is required for the final closure of the programmes. These provisions provide an incentive for effective and timely control mechanisms by all Member States.
Article 137: Procedure	
CPR Art. 137.4: Please explain why the provision that “both parties should make an effort to reach a conclusion” was deleted?	The invitation of the Member State to a hearing allows the right of defense of the Member State, and the Commission to take into account all appropriate elements to decide on a possible financial correction and on its importance. The spirit of good cooperation and partnership being basic principles in shared management it is clear to the Commission services that both parties should make an effort to reach a conclusion. Article 137(4) of the CPR: "Where the Member State does not accept the provisional conclusions of the Commission, the Member State shall be invited to a hearing by the Commission, in order to ensure that all relevant information and observations are available as a basis for conclusions by the Commission on the application of the financial correction."
ETC regulation	**Please also refer to Annex III on the division of tasks for management and control for ETC programmes**
Article 22 Functions of the Managing Authority	
In the current programming period the concrete functions of the national authorities and bodies are arranged by means of agreements or memoranda for understanding between the states for implementation of the programmes. Will this continue to be the case for the next programming period?	As in the 2007-2013 period, there is no regulatory requirement to conclude agreements or Memoranda of understanding for the future programming period. However, in accordance with Art. 7(5) ETC-regulation Member States and third countries, where applicable, shall confirm in writing their agreement to the contents of a cooperation programme prior to its submission to the Commission (including the commitment to provide the co-financing necessary to implement the cooperation programme, i.e. at least

	the co-financing for the Technical Assistance). This requirement has been introduced to ensure that participating Member States are well aware about the division of roles and responsibilities in programme implementation. Member States are free to conclude additional agreements or Memoranda of Understanding as necessary, but duplication of elements covered by the aforementioned confirmation should be avoided.
Par 3 – Why the exception of carrying out the verifications is made only in case the EGTC is the Managing Authority? Par 4 - In case an EGTC carries out the verifications, does the final responsibility for the accuracy of these verifications lie with the EGTC, with no responsibilities borne by the Member States involved in the EGTC?	For the management verifications, the starting point is the general rule set out in Art. 114 (4) (a) CPR, namely that the management verifications are to be carried out by the managing authority for the programme area as a whole. The aim is to streamline procedures to avoid delays, ensure the application of uniform control standards and thus ensure equal treatment of beneficiaries. Verifications could be carried out by the managing authority itself or for example through a dedicated unit in the joint secretariat. An outsourcing of the verification tasks could also be envisaged, however, it has to be underlined that the overall responsibility for carrying out the verifications remains with the managing authority. The ETC-regulation foresees that the management verifications have to be carried out centrally for the programme area as a whole where the managing authority is an EGTC. This is because if an EGTC is designated as the managing authority, it will be a joint body and have representation from all Member States/regions in the programme area. There would therefore not be a need to rely on controllers in each Member State. As in the case above, the ultimate responsibility remains with the managing authority/the EGTC. Member States will agree in the programming document on the apportionment of liabilities amongst them in case financial corrections are imposed. In some instances as for example ETC programmes involving a large number of Member States, it may not be possible to carry out management verifications centrally due to for example legal or linguistic barriers. The extent to which eligibility rules are harmonised for the programme area as a whole (either at EU or at programme level) also plays a role in this context. In that instance, management verifications will be carried out by controllers designated by each Member State and third country. The respective Member State/third country remains in this case responsible for the verifications carried out on its territory. Such decentralised verifications are technically no a derogation but an alternative way of organising the verifications.
Organisation of verifications under article should not be related to the introduction of an EGTC as the managing authority. Indeed, given that the Member States are responsible for the verifications, they should be the ones who will decide if and how those verifications would be implemented, either separately by each MS or in a joint fashion. Paragraph 4 should be rewritten accordingly.	
In terms of European Territorial Cooperation (**Art. 114.4, general reg., art. 22 ETC reg.)** - precise division of competences concerning the verifications procedures under Art. 114.4 between Member States covered by Operational Programme and Managing Authority (MA) is needed. How in practice the MA shall carry out such verifications in the whole programme area (e.g. through company selected via public procurement)? Which body will be competent to decide that MA cannot carry out the verification thought the whole programme area and therefore each MS or third country shall designate the body or person responsible for such verifications on its territory (controllers), as stated in the Art. 22.4 of ETC regulation? Secondly will such decision be treated as a derogation of the MA functions in this verification respect or it will be just a delegation of tasks to the lower level where still the overall responsibility for these controls will lie in the MA area?	
Could the EC provide some examples of (types of) projects, which are covered by Art. 22.5 of the ETC-regulation?	This provision has been taken over from the 2007-2013 period (Art. 16 para. 1 last subpara. of the ERDF-regulation). An example could be the elaboration of a joint touristic guide, the construction of a joint

Par 5 - Please provide examples of co-financed products or services which can be verified only in respect of an entire operation. In our experience, each output usually has an owner, so all outputs can be verified by the controller of the Member State where the beneficiary is located.	technology centre or the establishment of a joint website.
ETC Art 20 and 22: No role for Certifying Authority. Please clarify. **Article22 – Suppression of the certifying authority -** Could the Commission explain the difference with the other funds rules? The proposed system may increase the risk of error rates since the same body responsible for the 1st level control will annually certify the expenditure previously checked and paid. Will this proposal lead to reduction of administrative burden since it will entail a complete reorganisation of the current system?	With a view to streamlining the implementation structure of ETC programmes, the proposed regulation foresees that the managing authority fulfils the managing authority functions as set out in Art. 114 CPR and also the functions of the certifying authority as set out in Art. 115 CPR. The merger of the managing and certifying authority will enable ETC programmes to reduce the layers of control and cut down on potentially duplicating functions. The merger is proposed for all programmes rather than as an option (as for programmes under the Investment for Growth and Jobs goal) to take account of the principle of proportionality in view of the relatively smaller financial volumes of ETC programmes. We do not think that the proposed system will lead to an increase in the error rate. Experience rather seems to suggest that a well-functioning system of management verifications and audit work is key to keep error rates low. We also think that to the contrary, the proposed system will lead to an overall reduction of administrative burden given that the overall implementation system would be streamlined as a result. It is also possible to designate the certifying authority of the 2007-2013 period as the new managing authority if this is agreed by the Member states/regions involved in a cooperation programme.
ETC regulation: other articles	
We would like to ask for clarification why according to the point 28 of Preamble the member states should be encouraged to confer the task of the managing authority on EGTC. According to the wording of the article 21 of the proposal of ETC regulation the member states "…may make use of an EGTC…". There is no mention of encouraging member states. We require harmonizing the sense of point 28 of Preamble with the article 21.	Member States are free to set up an EGTC or designate another body as managing authority for an ETC programme, as the regulation indicates. The "encouragement" is mentioned because proposals for amendments of the EGTC regulation with a view to facilitating the use of the instrument have also been part of the legislative package proposed. Member States should therefore consider whether an EGTC could be a suitable option for their cooperation programme.
ETC Art 23: What does COM understand under factual elements? Please clarify.	As in other policy fields, the factual findings should *a priori* be recognized by the audit authority as the basis for its conclusions. This means for example that the programme audit authority in country A will not question the finding of the auditor in country B that instead of 3 only 2 computers were bought.
ETC Art. 25 and 26: Please reconsider why MA and not CA shall be responsible for the task detailed under point 3.	Since the proposal foresees to merge the functions of the Managing authority with those of the certifying authority, there is no division of tasks between the two.

ETC Art. 27: Please clarify is this rule only here and not for national OPs and the link with annual closure of accounts.	Article 26 derogates only as to when the conversion is made and by whom; the method stays the same as in Art. 123 CP. Art. 27 ETC regulation provides that the "n+3 rule" applies to ETC programmes; by way of derogation from Art. 127 para. 1 first subpara CPR. The remainder of Art. 127 CPR remains applicable also to cooperation programmes notably the calculation method (adding one sixth of the 2014 budget commitment to each of the 2015-2020 budget commitments) and the non-application of the deadline for de-commitment to the 2014 budget commitment. Accordingly, the first de-commitment deadline applicable to a cooperation programme approved in 2014 would be end of 2018. Decommitment and annual clearance of accounts are two different exercises. Decommitment is about reducing the support to the programme because the amounts commited could not be spent; annual clearance is an exercise by which the Commission accepts the annual accounts presented for an accounting year and determines the eligible expenditure for an operational programme for that accounting year.
According to the Article 25 paragraph 3 of the proposal of ETC regulation the Member State on whose territory the lead or sole beneficiary concerned is located shall reimburse the managing authority the amount unduly paid to a beneficiary. We ask for clarification of the reasons why this new approach (compared to the current period) was proposed. In our opinion this new approach is also in contradiction to the article 22 paragraph 4, last subparagraph.	The intention is to keep the rule as under the 2007-2013 period, i.e. "the Member state or third country on whose territory the beneficiary concerned is located … shall reimburse the managing authority the amount unduly paid…". This will be subject of a corrigendum.
Article 26. We welcome that there is a proposal how to convert expenditure nominated in a currency other than euro into euro. However the proposal will place quite a lot administrative burden on beneficiaries as well as on subjects responsible for the first level control, because many exchange rates will be used within a project. Therefore we would propose to adapt the rules and to convert all the expenditures submitted at the same time to the first level controller using the monthly accounting exchange rate of the Commission in the month during which the expenditures were submitted to the first level controller.	The Commission is open to discuss alternative provisions. The main aim of the Commission's proposal aims to minimise the time lapse between the moment in which the expenditure is incurred and the moment in which it is converted into euro, in order to increase certainty about the exchange rate for the beneficiary.

ANNEX I: PAYMENT FLOWS IN COHESION POLICY 2014-2020

Relevant articles in the Draft Regulation:

- Article 67 – Common rules for payments
- Article 70 – Accumulation of pre-financing and interim payments
- Articles 72 and 124 – Payment of pre-financing
- Article 120 – Calculation of interim payments and payment of the final balance
- Article 130 – Annual clearance of accounts
- Article 133 – Submission of the closure documents and payment of the final balance

1. PRE-FINANCING

1.1. Initial pre-financing

An initial pre-financing of 4% of the total contribution to a programme will be paid in 3 instalments (2% after adoption of the programme, 1% in 2015 and 1% in 2016).

This initial pre-financing is available to the programme during the whole execution period. It shall be used only for making payments to beneficiaries in the implementation of the programme.

1.2. Annual pre-financing

In addition to the initial pre-financing, an annual pre-financing will be paid to the programme during each accounting year from 2016 to 2022. The annual pre-financing amounts to 2% of the total contribution to the programme in 2016 and 2.5% in the following years.

This annual pre-financing is available to the programme during the accounting year for which it has been paid. It shall be used only for making payments to beneficiaries in the implementation of the programme.

2. INTERIM PAYMENTS

During the accounting year, the Commission will pay as interim payments 90% of the amount calculated on the basis of expenditure included in the payment applications in accordance with Article 120.

Applications for interim payment can be submitted on a regular basis during the accounting year. The expenditure included in the application should be cumulative from the start of the accounting year.

A final application for interim payment must be submitted following the end of the accounting year (by 31 July), covering the amounts (for the whole accounting year) entered into the accounts of the certifying authority for which the public support has been paid to beneficiaries (art. 126(1) and (2)).

3. ANNUAL CLEARANCE OF ACCOUNTS

The Commission attains reasonable assurance on the regularity of expenditure on the basis of the annual management declaration of assurance, the certified annual accounts, the accompanying reports and the annual audit opinion on the management declaration and the accounts. These documents would be submitted every year (by 1st February) for the preceding accounting year.

However during the accounting year, when interim payments are made by the Commission, the assurance available is more limited. Therefore it is proposed that interim payments made by the Commission during the accounting year would constitute90% of the amounts calculated as due to the programme and that the balance would be paid by the Commission following the annual clearance of accounts. The pre-financing arrangements envisaged will ensure that Member States have sufficient liquidity to reimburse beneficiaries implementing operations on the ground.

By 30 April of the year following the end of the accounting year, the Commission will determine the balance to be paid to or recovered from the programme on the basis of the annual accounts and accompanying documents. This balance is calculated as follows.

Amount chargeable to the Funds on the basis of expenditure included in the certified annual accounts, as calculated in accordance with Article 120, from which are deducted the interim payments to the programme during the accounting year and the annual pre-financing related to the accounting year.

The balance which is payable will be added to the next interim payment made by the Commission following the clearance of accounts. The balance which is recoverable will be recovered from the programme by offsetting the recovery order from the next payment.

The annual pre-financing is cleared in this exercise in the decision of the Commission.

There is no loss of unspent funds associated with this exercise, as the annual advance and interim payments, on the one hand, and the contribution due on the basis of the annual accounts on the other hand, are reconciled at the clearance of accounts.

4. ACCUMULATION OF PRE-FINANCING AND INTERIM PAYMENTS (95% CEILING)

When the level of pre-financing and interim payments reaches 95% of the total contribution to the programme, no further payments will be made until the final payment.

Member States shall continue to submit applications for payment and annual accounts to the Commission. The Commission will continue to clear the annual accounts as foreseen in Article 130. However this clearance will not result in further cash transactions. Instead, the Commission will clear the annual pre-financing and, where applicable, the initial pre-financing.

5. FINAL PAYMENT

The closure documents to be submitted by 30 September 2023 will be subject to the same process of annual clearance of accounts for the final accounting year, which covers the period 1 July 2022 to June 2023.

In this respect, the deadline of 30 September 2023 set in Article 133 will allow 9 months for Member States to prepare the final closure documents following the end of the eligibility period, i.e. by 31 December 2022.

The final balance shall be paid no later than three months after the date of clearance of accounts of the final accounting year or one month after the date of acceptance of the final implementation report, whichever date is later.

The example below shows the payments flow for a programme with the following characteristics:

Total contribution to the programme	1000
Interim applications for payment for the respective accounting years (assuming evenly spread in financial year)	120
Amount chargeable to the Fund at clearance of accounts for each accounting year (assuming that amounts certified in the annual accounts are the same as in the interim applications and that the Commission clears the amounts certified)	120

Financial year	2014		2015		2016		2017		2018		2019		2020		2021		2022		2023	
Accounting year	2014-2015		2015-2016		2016-2017		2017-2018		2018-2019		2019-2020		2020-2021		2021-2022		2022-2023			
Initial pre-financing	20		10		10															
Annual pre-financing					20		25		25		25		25		25		3			
Interim payments (1)		54	54	54	54	54	54	54	54	54	54	54	54	54	54	54				
Balance from annual clearance of accounts (2)					12		-8		-13		-13		-13		-13					
Final payment																				50
Total/financial year	74		118		150		125		120		120		120		120		3		50	
Cumulative total	74		192		342		467		587		707		827		947		950		1000	

(1) If the programme submits applications for payment amounting to 60 in each semester of the year, then the Commission will reimburse 60 x 90% = 54 in each semester.

(2) The balance resulting from the clearance of accounts will be calculated as follows:

- Accounting year 2014-2015 – clearance decision adopted by 30 April 2016

Amount chargeable to the Fund	120	
Interim payments 54+54	-108	
Annual pre-financing for 2014 and 2015	0	
Balance (to be paid)	12	

- Accounting year 2015-2016 – clearance decision adopted by 30 April 2017

Amount chargeable to the Fund	120	
Interim payments 54+54	-108	
Annual pre-financing for 2016	-20	
Balance (to be recovered)		-8

- Accounting year 2016-2017 – clearance decision adopted by 30 April 2018

Amount chargeable to the Fund	120
Interim payments 54+54	-108
Annual pre-financing for 2017	- 25
Balance (to be recovered)	- 13

- Accounting year 2017-2018 – clearance decision adopted by 30 April 2019

Amount chargeable to the Fund	120
Interim payments 54+54	-108
Annual pre-financing for 2018	- 25
Balance (to be recovered)	- 13

The annual balance for the following accounting years is calculated following the same method.

ANNEX 2: CONTENT OF THE PAYMENT APPLICATIONS AND CALCULATION OF PAYMENTS BY THE COMMISSION

1. Content of the payment applications

According to article 121.1 an application for payment shall include, for each priority axis, the following amounts as entered into the accounts of the certifying authority:

a) ***"the total amount of eligible expenditure paid by beneficiaries in implementing operations, as entered into the accounts of the certifying authority"***

This corresponds to the total eligible expenditure paid by the beneficiaries in implementing the operations as selected by the managing authorities, independently of whether they are public or private bodies.

b) ***"the total amount of public support incurred in implementing operations, as entered into the accounts of the certifying authority"***

'Public support' means any financial support to the financing of an operation the origin of which is the budget of national, regional or local public authorities, the budget of the Union related to the CSF Funds, the budget of public law bodies or the budget of associations of public authorities or public law bodies (article 2 (12)).

The corresponding column should be completed with the amount of total amount of public support defined above, that is the contribution from the Funds and other public expenditure including, in case of public beneficiaries, the expenditure paid by the beneficiary itself.

c) "the corresponding eligible public support which has been paid to the beneficiary, as entered into the accounts of the certifying authority"

This column should be completed with the amount of eligible public support paid to the beneficiaries, that is the contribution from the Funds and other public support excluding, in case of public beneficiaries, the expenditure paid by the beneficiary itself.

The public support paid to the beneficiary should result from the conditions of support established between the Managing Authority and the beneficiary.

EXAMPLE:

	Total expenditure paid by beneficiaries (a)	Total amount of public support incurred (b)	Corresponding eligible public support paid to the beneficiaries (c)
Project A (public beneficiary)	100	100	80
Project B (private beneficiary)	100	50	50
Total for the priority	200	150	130

Explanation:

For public beneficiaries (see Project A in the table), the amount included for each priority in the column *"Total amount of public support incurred "* (article 121.1(b)) may be different from the amount included in the column "*Corresponding eligible public support paid to the beneficiaries"*(article 121.1(c)).

The difference of 20 between the total public support incurred into Project A (100) and the corresponding public support paid to the beneficiary (80) is the public contribution paid by the public beneficiary itself in implementing the project.

Whereas for private beneficiaries (see Project B in the table) the amount included for each priority in the column *"Total amount of public support incurred "* (article 121.1(b)) and the amount included in the column "*Corresponding eligible public support paid to the beneficiaries"*(article 121.1(c)) will be the same.

As illustrated in the example, the three columns (a), (b), and (c) should be filled-in in the same way irrespective of whether the basis for calculating the Funds contribution is total eligible expenditure (including public and private expenditure) or public eligible expenditure (art. 110(2)).

2. Calculation of interim payments and payment of the annual and final balance by the Commission

- For the purpose of calculating interim payments, the payment of the annual balance and of the final payment, the Commission will use columns (a) and (b) only, as in the current programming period.

Payments will be calculated by applying the co-financing rate at the level of the priority axis of each OP to the eligible expenditure for the priority axis and capping the amount to the public support indicated in the payment application for the priority axis (article 120(2)(a). Moreover the amount paid shall not be higher than the contribution from the Funds for the priority axis laid down in the decision from the Commission approving the operational programme (art. 120(2)(b).

- The information in column (c) shall be used for the purpose of article 119, that is to ensure at closure of the operational programme that the amount of public support paid to beneficiaries is at least equal to the contribution from the Funds paid by the Commission to the Member State.

This information will not be used for the purpose of calculating payments by the Commission.

- If the Fund contribution to the priority axis is calculated on the basis of the total eligible expenditure, including public and private expenditure, the Commission will apply the co-financing rate on the total amount of eligible expenditure paid by beneficiaries from column (a)

For example, if the co-financing rate of the priority axis is 60% then the payment will be calculated as follows:

200 x 60% = 120

- If the Fund contribution to the priority axis is calculated on the basis of the public eligible expenditure the Commission will apply the co-financing rate on the total amount of public support incurred from column (b)

For example, if the co-financing rate of the priority axis is 60% then the payment will be calculated as follows:

150 x 60% = 90

As far as interim payment are concerned, it should be recalled that the Commission will only pay 90% of the amount resulting from the calculation above mentioned in accordance with Article 120(1).

ANNEX III: DIVISION OF TASKS FOR MANAGEMENT AND CONTROL OF TERRITORIAL COOPERATION PROGRAMMES

I. Authorities involved in programme implementation

The proposed ETC-regulation foresees the designation of a single managing authority and a single audit authority for each ETC programme. The same authorities may be designated for more than one programme.

The tasks of the managing authority are set out in Art. 114 CPR. These mainly relate to programme management, project selection and financial management and control. With a view to streamlining the implementation structure of ETC programmes, the proposed regulation foresees that the managing authority also fulfils the functions of the certifying authority as set out in Art. 115 CPR. These relate to the submission of payment applications, the drawing up of the annual accounts and certifying their completeness, and keeping comprehensive accounting records.

The merger of the managing and certifying authority will enable ETC programmes to reduce the layers of control and cut down on potentially overlapping functions. This merger is proposed for all ETC programmes (rather than as an option as for programmes under the Investment for Growth and Jobs goal) to streamline the management and reduce administrative burden and cost in view of the relatively smaller financial volumes of ETC programmes. It is, however, possible to designate as future managing authority the body which is the certifying authority under the 2007-2013 period.

The proposed regulation clarifies that a European Grouping for Territorial Cooperation (EGTC) can also be designated as a managing authority for an ETC programme as a whole or as an intermediate body for a part of such a programme. In the latter case, this could be applicable for example for the implementation of an integrated territorial investment.

A joint secretariat will be set up for each ETC programme. It shall assist the managing authority and the monitoring committee in carrying out their functions. In relation to the managing authority, this could include support in drawing up implementation reports, setting up systems for data collection including accounting records and support in carrying out the management verifications. In relation to the monitoring committee, the main task of the joint secretariat will normally be the preparation of the documentation necessary for the meeting. The concrete distribution of tasks will depend on the individual programme context.

The joint secretariat has a key role to play in organising information activities for potential beneficiaries, explaining programme objectives and procedures to follow. Its support is also necessary in the implementation phase, e.g. through advice to beneficiaries in relation to reporting requirements, eligibility of expenditure etc.

II. Organisation of management verifications

1. General rule

The ETC regulation foresees that the general rule set out in Art. 114 (4) (a) CPR applies, namely that the management verifications are to be carried out by the managing authority for the programme area as a whole. The aim is to streamline procedures to avoid delays, ensure the application of uniform control standards and thus ensure equal treatment of beneficiaries.

Verifications could be carried out either by the managing authority itself, or for example, through a dedicated unit in the joint secretariat under the responsibility of the managing authority. The INTERACT programme has provided models for such arrangements.

Where the managing authority is an EGTC, management verifications will be carried out for the programme area as a whole by the staff of the EGTC.

2. Alternative
In some instances, for example for ETC programmes involving a large number of Member States, it may not be possible for management verifications to be carried out by a single, central body. In that instance, management verifications will be carried out by controllers designated by each Member State and third country. In this case, the respective Member State/third country remains responsible for the verifications carried out on its territory. This is in line with current arrangements.

In order to ensure good quality controls and make best use of existing experience, bodies that are familiar with carrying out such verifications should preferably be designated as controllers for ETC programmes (i.e. those responsible for verifications in programmes under the Investment for Growth and jobs goal in Member States or bodies familiar with comparable verifications under external policy instruments in the case of third countries).

III. Organisation of audits

1. General rule
The general rule is that the audit authority carries out the functions of the audit authority as laid down in Art. 116 CPR for the programme area as a whole. The ETC regulation explicitly foresees the possibility that the audit authority can be accompanied by an auditor of the Member State where the audit is taking place in order to ensure the presence of the Member State concerned where necessary. The aim of the centralised audits is efficiency of organisation and the application of uniform audit standards.

2. Alternative
Where the audit authority does not have the authorisation to carry out the functions of the audit authority in all Member States involved, it shall be assisted by a group of auditors composed of representatives from each Member State or third country. In this case, each member of the group of auditors will carry out the audit tasks in its own Member State and provide to the audit authority the elements it needs to carry out its assessment. As in other policy fields, the factual findings should *a priori* be recognised by the audit authority as the basis for its conclusions. This is in line with current arrangeme