

## ANNEX 4 – Management and control responsibilities

This annex provides an overview and interpretation of the management and control responsibilities already stated in the Regulations without imposing additional control requirements.

### 1. Audit authority (AA)

#### a. Legal basis

Articles 40.3 and 127 of CPR 1303/2013

Articles 9.2 and 7 of CDR 480/2014

#### b. Scope and intensity

**Systems audits** are performed at the level of MA/IB and at bodies implementing the financial instruments (FoF level and financial intermediaries, if necessary depending on the availability of the documents) in line with their responsibilities as described below. The AAs are recommended to perform thematic audits on FIs in order to verify the procedures in place and their implementation by the MA and the bodies implementing the FI (see checklist). System elements covered during the audits of operations should be taken into account for the scope of the thematic audits.

FI design and set-up phases should be covered (ex-ante, implementation options, funding agreement, monitoring and control arrangements) as well as implementation. We further recommend to disclose processes and procedures which constitute excess administrative burden and cost, or can be simplified without undermining the overall assurance and effectiveness of the management and control system. This concerns in particular practices in which FIs are managed in the same way as grants.

**Audits of operations (including closure audits)** based on declared expenditure are performed at the level of the Fund of Funds /final intermediary level, or only in very exceptional cases at final recipient level, if complied with the conditions of Article 40.3 CPR. In the context of guarantee funds, audits at the level of bodies delivering

the underlying new loans only if the documents are not available at the guarantee fund level. Audits to be carried out throughout the programming period until closure.

It is recommended to have a separate stratum for FI expenditure declared to the Commission during an accounting year. Payments are made by tranches (up to 25%) to FIs, when applicable. Random selection is applied to the items of disbursed expenditure (investments of final recipients and management costs and fees). Within a payment tranche, expenditure could be further stratified (payments to final recipients, resources committed to guarantees, management costs and fees). It is recommended to foresee a “buffer” of eligible transactions while verifying compliance with the thresholds (i.e. audit authority to use for its population the date of its audit – see Annex 2 sampling methodology, box 6). In case of non-compliance with the required threshold, there is a possibility to carry out additional verifications before the submission of the accounts to the Commission (see Annex 2 sampling methodology, box 9). It is not compulsory to audit all tranches but recommended to cover all FIs before closure. Results from previous audits can be used, i.e. a possibility of multi-period sampling to minimise sample size (see Annex 2 sampling methodology, box 8). Selected FIs can be grouped.

The audits of operations at the level of the disbursed expenditure cover the i) eligibility of final recipients and their projects, ii) the use for intended purpose as indicated in the business plan or equivalent document as well as iii) eligibility of management costs and fees<sup>1</sup>. The check for the intended purpose<sup>2</sup> should be proportionate to the risk for the EU budget (i.e. the amount of public contribution) and does not have to include accounting reconciliation. There are cases, where the most

---

<sup>1</sup> With regard to financial instruments set up under points (a) and (c) of Article 38(1) of the CPR and for financial instruments set up under point (b) of the same Article implemented by the European Investment Bank (EIB) or other international financial institution, management costs and fees charged by EIB/European Investment Fund (EIF) or by other international financial institution are audited by the external auditors of the EIB/EIF. Furthermore, any management costs and fees charged by the financial intermediaries selected at national level by EIF for loans and equity instruments are checked by the external auditors of EIB/EIF.

<sup>2</sup> See Annex 3 for the specific checks of the use for intended purpose in case of working capital.

efficient way to verify the use for intended purpose is based on invoices. Auditors should not seek to reconcile amounts of loans/investment with supporting invoices (for working capital and equity requesting invoices would be considered as gold plating). It is sufficient to review the main invoices based on a sample, risk based or random, and based on professional judgement. **No audit of all invoices is necessary.** There are cases, where the most efficient way to verify the use for intended purpose is based on other relevant justification such as: external assessment, audited financial statements and other accounting documents, reports from final recipients or financial intermediaries, etc). See chapter 5 below for the clarifications in this respect concerning the first level of control.

At closure when the final balance includes the amount eligible, it is recommended to cover the remaining population (i.e. up to 36.25 %) not covered previously during audits of operations (if possible all FIs of an OP should have been covered by an audit by closure).

There are some restrictions in the case of FIs implemented by EIB/IFI. The AA cannot audit EIB/IFI but EIB provides an annual audit report prepared by an external audit firm, on the basis of which it can provide reasonable assurance on the internal control system (set-up). The AA is recommended to audit the other bodies implementing the financial instruments.

As for grants as well, the AA should audit the reporting of **performance indicators**. This can be done both during system audits and audits of operations, even if the legal obligation to verify performance data refers only to audits of operations (Art. 27(2)(d) of Reg. EU 480/2014).

## **2. Certifying authority (CA)**

Art. 126 CPR does not foresee any control activities by the CA, neither with regard to grants nor with regard to FIs. The CA is responsible for the accounting of the programme.

## **3. Managing authority (MA)/intermediate body (IB)**

## a. Legal basis

Articles 40, 41, 42 (and all articles related to eligibility). Art. 125(5) of CPR  
1303/2013

Article 9 of CDR 480/2014

## b. Scope and intensity

- **Set-up of the FI** (compliance with OP and investment strategy, ex-ante assessment, implementation option)
- **Setting eligibility rules** in the funding/operational agreements and selecting the bodies implementing the FI (FoF or financial intermediaries)
- **Management verifications**

Each level of management and control system (MA /IBs) should satisfy its supervisory role in terms of management and control system through adequate level of checks which could include re-performance of previous checks. Even if strictly speaking and based on the legal provisions and FoF is a beneficiary, in practice, for FI, it plays a role similar to an “Intermediate Body” in the case of grants with regard to the performance of adequate first level controls as specified in the funding agreement. The MA/IB should assess whether it can rely on the work performed by FoF. However, the work should not be unnecessary duplicated.

**Administrative verifications** of each application for reimbursement from FoF/financial intermediaries for tranches with, as supporting evidence, at least the list of eligible transactions demonstrating that the threshold was reached. It is recommended that the list of transactions which is annexed to the payment claim (tranches) includes information on the final recipient (name, type) and on the loan/investment (amount, duration, purpose, date of disbursement)<sup>3</sup>. The MA should obtain and review these regular reports/applications for reimbursement from FoF

---

<sup>3</sup> There is an exception for FIs managed by EIB/IFI as described below.

ensuring adequate supervision on financial intermediaries. These administrative verifications are in general done risk based. The MA bears the final responsibility for the FI implementation. It decides about the expenditure to be provided as audit population.

**On the spot verifications** are performed on a sample proportionate to the risks, carried out at the level of FoF (except for EIB Group). Checks at the level below (financial intermediaries) could be performed and adjusted in time depending on the risks identified (historical issues, results of audits, functioning of the FoF/the financial intermediaries). In the context of guarantee funds, MAs carry out checks at the level of bodies delivering the underlying new loans only if necessary, mainly in case of portfolio guarantees where all the checks are done by those bodies. MAs could also join an on the spot verification, if such are carried out by the FoF.

For cases of FI implemented by EIB/IFI: The EIB/IFI should provide a control report with each application for payment in line with the requirements set in Regulation 2019/1140. However, the MA, in order to obtain the necessary level of assurance, should complement the assurance provided by this report by carrying out its own management verifications, at the level of the financial intermediary.

Management verifications should be ultimately finalised at closure, on time to perform all additional controls for the submission of the last accounts.

## **4. Fund of Funds (FoF)**

### **a. Legal basis**

Articles 6 and 7 CDR 480/2014

### **b. Scope and intensity**

FoF **selects and supervises financial intermediaries**, i.e. review of capacity to implement (including considerations of own contribution), agreement on reporting flow, support to financial intermediaries. The FoF has the responsibility to supervise the work of financial intermediaries. The financial intermediaries should report about

the implementation of the FI to the FoF, which should analyse the information. The FoF should, carry out a desk review of a sample of files of final recipients to assess the functioning of the internal control system put in place by the financial intermediary. In fact, providing support to financial intermediaries has been identified as a key task that is effective in preventing issues with following controls. Good communication between FoF and financial intermediaries is essential. The FoF should report to MA the result of these verifications.

FoF **prepares the application for reimbursement** based on the information from the financial intermediary. Related to the preparation of the application the FoF performs administrative verifications on financial intermediaries' reports (including the evidence on the overall compliance with the funding agreements, listing of transactions including information on final recipients and on the loans/ guaranteed loans / equity investments, etc.). FoF also performs risk-based verifications at financial intermediary level to assess the adequacy of the main processes and records put in place by the financial intermediary and to check the eligibility of transactions and compliance with the relevant programme provisions (SME status, no refinancing, State aid, when applicable the check on the use for intended purpose is done, etc.). Such risk-based verifications can be done on the spot. The FoF should document the risk assessment. It reviews the results of the financial intermediaries' own verifications based on a review of a sample of transactions, as well as any follow up of previous recommendations.

The FoF is responsible for **accountancy and treasury** of the instrument as well as for the recycling of interests and returns. It is the main actor responsible for the winding-up and exit.

## 5. Financial intermediary

The financial intermediary is responsible for the disbursement of the amounts to final recipients in line with the terms of **eligibility and financial viability both of the final recipient and its investment** (e.g. loan request supported by a business plan).

During implementation, once the loan / guaranteed loan / equity investment has been disbursed, the financial intermediary is verifying, when needed, the **use for intended purpose**. The verification for the use for the intended purpose depends on the type of financial product (equity, guarantee, loans) as well as the type of support (e.g. working capital as described in Annex 3). The evidence to be kept should be at least the application forms, or equivalent, submitted by final recipients and/or the investment agreement; supporting documents, including business plans or equivalent documents, and, when relevant, previous annual accounts; evidence that the support provided was used for its intended purpose (such as: receipted invoices or accounting documents of equivalent probative value, or external audit reports, or a confirmation by the financial intermediary about the use of the funding, by the final recipient or a third party, in line with the monitoring and control procedures as established in the funding agreement between the MA and the fund manager).

Supporting invoices/documents may be checked on a sample basis<sup>4</sup>. For the different types of investments to be checked:

- for loans given for an investment: It may be normal practice of the financial intermediary to request the invoices justifying the investment (not necessarily justifying 100% of the investment). It could also be that at the time of the verification, some investments might not be yet completed or even started. It may be also that the financial intermediary is paying directly the supplier.

---

<sup>4</sup> Please refer also to the Guidance on management verifications (EGESIF 14-0012), p. 29.

Management verifications should focus on checking the supporting documents attesting observance of the funding conditions. The documentation may include application forms, business plans, annual accounts, checklists and reports of the financial instrument assessing the application, the signed investment, loan or guarantee agreement, reports by the enterprise, reports on visits and board meetings, reports by the loan intermediary to the guarantee fund supporting claims, environmental approvals, equal opportunities reports and declarations made in connection with receipt of de minimis aid.

Evidence of expenditure in the form of receipted invoices and proof of payment for goods and services by SMEs is only required as part of the audit trail where the capital, loan or guarantee to the SME is conditional on incurring expenditure on particular goods or services. However, in all cases, there must be proof of the transfer of the capital or loan by the venture capital fund or loan intermediary to the enterprise and evidence that the support provided through the financial instrument was used for its intended purpose.

- for loans given for working capital: The loan is given based on an analysis of the balance sheet and the foreseen evolution of short term financing needs based on a business plan or similar which broadly outlines the intended use of funds under working capital loans (i.e. the loan is not used for areas considered not eligible for Cohesion funding like nuclear power plants, etc.). Requesting invoices to justify the use of the working capital financing would not be normal practice of the financial intermediary.
- for equity: The investment is made based on the eligibility of the company and the business plan or equivalent document. The role of the fund manager is to support the company's growth through its investment, providing some support and advice in addition to the money invested. The fund manager monitors that the company is developing in line with its business plan or equivalent, typically through one of several seats at the company's board of directors. The fund manager further reports such company evolution to the fund investors (i.e. the MA). The fund manager verifies that the investment was carried out in line with the business plan or equivalent document, any major adjustments in the course of the investments are explained, e.g. as a result of discussions with the other shareholders/investors.
- for guarantees: See the text related to loans above. The controls should take place where the expenditure is generated.
  - In case of loan by loan guarantee, if the eligibility controls are done by the guarantor, it should be checked that the loan was effectively disbursed in line with the eligibility criteria;
  - In case of portfolio guarantees, the FoF / guarantee fund manager has the obligation to check if the financial intermediaries disbursing the loans are verifying the eligibility of the final recipient that they are not refinancing existing loans and they apply the same standards as for their own business, and later on, that they verify the use for the intended purpose.

An adequate **audit trail** should be available at financial intermediary level.



The financial intermediary may be also responsible for **accountancy and treasury** of the instrument as well as for the recycling of interests and returns. It may be also responsible for the winding-up and exit.

## 6. Final recipient

### a. Legal basis

Articles 6 and 9 of CDR 480/2014

### b. Scope and intensity

The financial instrument finances a final recipient or its investment which should be financially and economically viable (business plan or equivalent document). The intended use of the loan/equity investment should be described, at least, in the submitted business plan or equivalent document<sup>5</sup> (and any amendments thereof).

Where applicable, the final recipient **repays the loans**, in line with the repayment schedule.

Where applicable, the final recipient **provides supporting evidence** for expenditure declared as eligible, i.e. he/she submits list of invoices and/or supporting evidence to the financial intermediary providing the assurance that the support was used for the intended purpose and for eligible investments (for examples see sections 1 and 5 above).

The evidence that the support was used for its intended purpose could take a different form than an invoice like for example a report from final recipient describing the results obtained following the implementation of the supported investment (e.g. for investments in tangible/intangible assets with a listing of the main expenditure items incurred and containing the details of such expenditure; a report of external auditor/expert, etc.). This depends on the market practice of the financial intermediary but if needed minimum standards shall be prescribed by the MA.

---

<sup>5</sup> In most cases, it would be the financial intermediary to prepare an assessment document for the planned investment/project based on the application/request by the final recipient.

