

**GUIDANCE ON THE CLOSURE OF OPERATIONAL PROGRAMMES UNDER THE EFF (2007-13)  
– USE OF BLOCKED ACCOUNTS -**

**VERSION 1 December 2014**

**RELEVANT PROVISIONS IN THE EFF REGULATION (EC) NO 1198/2006 AND IN ITS  
IMPLEMENTING REGULATION (EC) NO 498/2007**

Regulation	Articles
EFF Regulation (EC) No 1198/2006	<p style="text-align: center;"><i>Article 55</i></p> <p style="text-align: center;"><b>Eligibility of expenditure</b></p> <p>1. Expenditure shall be eligible for a contribution from the EFF if it has actually been paid by the beneficiaries between the date of submission of the operational programme to the Commission or from 1 January 2007, whichever is earlier, and 31 December 2015. Operations co-financed must not have been completed before the starting date for eligibility.</p> <p>2. By way of derogation from paragraph 1, in-kind contributions, depreciation costs and overheads may be treated as expenditure paid by beneficiaries in implementing operations under the following conditions:</p> <p style="margin-left: 40px;">(a) the eligibility rules laid down under paragraph 4 provide for the eligibility of such expenditure;</p> <p style="margin-left: 40px;">(b) the amount of the expenditure is justified by accounting documents having a probative value equivalent to invoices;</p> <p style="margin-left: 40px;">(c) in the case of in-kind contributions, the co-financing from the EFF does not exceed the total eligible expenditure, excluding the value of such contributions.</p> <p>3. Expenditure shall be eligible for a contribution from the EFF only where incurred for operations decided on by the managing authority in accordance with criteria fixed in advance by the Monitoring Committee.</p> <p>New expenditure, added at the moment of the revision of an operational programme referred to in Article 18, shall be eligible from the date of the submission to the Commission of the request for revision of the operational programme.</p> <p>4. The rules on the eligibility of expenditure shall be laid down at national level subject to the exceptions provided for in this Regulation. They shall cover the entirety of expenditure declared under the operational programme.</p> <p>5. The following expenditure shall not be eligible for a contribution from the EFF:</p> <p style="margin-left: 40px;">(a) a value added tax, except for a non recoverable value added tax when it is genuinely and definitively borne by a beneficiary other than non-taxable persons referred to in the first subparagraph of Article 4(5) of the Sixth Council Directive 77/388/EEC of 17 May 1977 on the harmonisation of the laws of the Member States relating to turnover taxes — Common system of value added tax: uniform basis of assessment (22);</p>

	<p>(b) interest on debt, without prejudice to paragraph 8;</p> <p>(c) the purchase of land for an amount exceeding 10 % of the total eligible expenditure for the operation concerned;</p> <p>(d) housing.</p> <p>6. Paragraphs 1, 3 and 4 shall be without prejudice to the provisions of Article 46(1).</p> <p>7. As regards operations not implying expenditure for the beneficiary, the expenditure eligible for a contribution from the EFF shall be the public aid paid to the beneficiary.</p> <p>8. Notwithstanding paragraph 5(b), the contribution from the EFF may be in a form other than a non-repayable direct assistance. Detailed rules shall be defined in accordance with the procedure referred to in Article 101(3).</p> <p style="text-align: center;"><i>Article 78</i></p> <p style="text-align: center;"><b>Statement of expenditure</b></p> <p>1. All statements of expenditure shall include, for each priority axis and for each objective, the total amount of eligible expenditure paid by beneficiaries in implementing the operations and the corresponding public contribution paid or due to be paid to the beneficiaries, according to the conditions governing the public contribution. Expenditure paid by beneficiaries shall be supported by receipted invoices or accounting documents of equivalent probative value. As regards operations not involving expenditure by the beneficiary, the expenditure certified by the certifying authority and submitted to the Commission shall be the public aid paid to the beneficiary.</p> <p>2. With regard to Articles 76(2) and 77(b), the statements of expenditure shall also highlight the total amount of Community assistance paid or due to be paid to the beneficiaries.</p>
EFF IR (EC) No 498/2007	<p style="text-align: center;"><i>Article 8</i></p> <p style="text-align: center;"><b>Socio-economic compensation for the management of the Community fishing fleet</b></p> <p>1. The operational programme shall specify the methods for calculating the socio-economic compensation for the management of the Community fishing fleet granted under Article 27 of the basic Regulation.</p> <p>2. Support provided for in Article 27(1)(d) of the basic Regulation for early retirement shall be eligible for a contribution from the EFF, even where it is paid to the beneficiaries after 31 December 2015, provided that it has been secured for this purpose in a blocked account before that date.</p>

**DISCLAIMER:**

*"This is a working document prepared by the Commission services. On the basis of the applicable EU law, it provides technical guidance to the attention of public authorities, practitioners, beneficiaries or potential beneficiaries, and other bodies involved in the monitoring, control or implementation of the European Fisheries Fund on how to interpret and apply the EU rules in this area. The aim of this document is to provide Commission services' explanations and interpretations of the said rules in order to facilitate the implementation of operational programmes and to encourage good practice(s). However this guidance note is without prejudice to the interpretation of the Court of Justice and the General Court or decisions of the Commission."*

## **1. LEGAL BACKGROUND**

Section 3.1 of the EFF closure guidelines<sup>1</sup> recalls that according to Art 55(1) of the EFF regulation, the final date of eligibility of expenditure under EFF Operational Programmes (OPs) is 31.12.2015. This applies to payments by MS to beneficiaries, since EFF Art. 78(1) specifies that for operations not involving expenditure by the beneficiary, the public aid paid to the beneficiary is the expenditure certified and submitted to the Commission.

Art. 8.2 of Regulation (EC) No 498/2007 (EFF Implementing Regulation) dealing with measures of socio-economic compensation for the management of the EU fishing fleet, stipulates that blocked accounts can be used by MS for payments beyond this final date:

“Support provided for in Article 27(1)(d) of the basic Regulation for early retirement shall be eligible for a contribution from the EFF, even where it is paid to the beneficiaries after 31 December 2015, provided that it has been secured for this purpose in a blocked account before that date.”

As no other provisions of this regulation foresee the possibility to use blocked accounts at the time of closure of EFF OPs, it can be inferred that such accounts can only be used for early retirement payments. It is, however, important to indicate the conditions under which such accounts can be used to meet MS obligations at the time of EFF OP closure.

## **2. CONDITIONS TO BE RESPECTED BY THE MS FOR THE USE OF BLOCKED ACCOUNTS**

### **2.1 Conditions on blocked accounts**

For blocked accounts to be acceptable, the responsible Managing Authority must ensure that the following conditions are respected at the time of closure of the relevant OP:

- The corresponding retirement scheme or group of schemes must be clearly identified and described in the closure documents;
- All the final recipients or early retirements premia under this scheme or group of schemes, must have been designated before the final date of eligibility;
- The funds equivalent to total pending payments must be deposited in an account that can receive EU funds and from which funds can be transferred only to the relevant payment authorities or to the identified beneficiaries;
- A written agreement between the financial institution holding the blocked account, and the responsible Managing Authority, must establish the above obligations, as well as those of accruing the interests generated, of discounting the relevant management costs into the account and of returning un-needed or reimbursed funds to the said Authority.

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<sup>1</sup> Commission decision of 1.8.2013 on the approval of guidelines on the closure of operational programmes adopted for assistance from the European Fisheries Fund (2007-2013) - C(2013) 4879

## **2.2 Conditions on closure documents and process**

- the payments to be made from the blocked accounts will be included and clearly labelled in the final expenditure declaration and final payment request, identifying the beneficiary, file number, amounts and expected payment date;
  - the blocked account procedure will be fully described in the closure documents, as foreseen by the closure guidelines<sup>2</sup>; this will include a commitment by the Managing Authority :
    - to report to the Commission on the way the funds involved have been used;
    - not to transfer unused or reimbursed funds later to other operations but to return them to the EU budget;
    - if the beneficiaries were found not to meet the grant conditions, to stop paying the corresponding premia and if appropriate to recover ineligible expenditure.
  - Once the ultimate beneficiaries have respected the necessary conditions and received their premia, the corresponding amounts will have to be certified.
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<sup>2</sup> See sections 4 and 5 of the Annex to the Commission decision of 1.8.2013 on the approval of guidelines on the closure of operational programmes adopted for assistance from the European Fisheries Fund (2007-2013), C(2013) 4879, pp. 8-16