



# TESIM

Technical support to the implementation and management of ENI CBC programmes

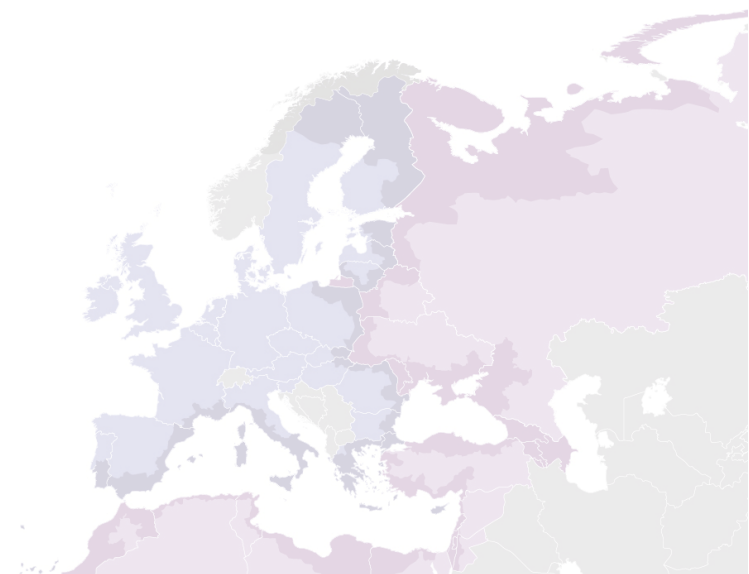
## Development of the description of the management and control systems in ENI CBC programmes

Update June 2017

### DISCLAIMER

This **non-binding document** has been developed by the TESIM project.

It does not necessarily reflect the views of the European Commission on the topic, and is presented to programme practitioners **for illustrative purposes only**.



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## Background

Following their recent adoption, ENI CBC programmes 2014-2020 are confronted with the development of the **description of the management and control systems (DMCS)**. This task, required by article 30 of ENI CBC Implementing Rules (Regulation (EU) No 897/2014)<sup>1</sup>, hereinafter called ENI CBC IR, is essential for the compliance assessment to be carried out in the framework of the designation procedure of the Managing Authorities (MAs). Moreover, the request for getting the designation “as soon as possible”, as stated in article 25.3 of the ENI CBC IR, makes it necessary to ensure an adequate and prompt development of the document.

Even if no official template exists for the preparation of the DMCS in ENI CBC programmes, preliminary tools, the guidance available for other cross-border cooperation instruments and the experience of the programme bodies themselves represent a substantial basis allowing to carry out this process in an efficient manner.

As a starting point, INTERACT ENPI and the ENI CBC Support to Programme Preparation (SPP) project prepared a **first draft outline of the DMCS**, which was circulated as a non-binding paper to all programmes and national bodies participating at the INTERACT ENPI meeting of the audit and finance network held in February 2015.

The current proposal builds on it and takes into account the requirements of the following **legal base**:

- a) Article 32 of the Financial Regulation (Regulation 966/2012) on internal control requirements for bodies managing EU funds
- b) Article 30 and Annex – designation criteria – of the Implementing Rules (Regulation 897/2014)

Moreover, it has been completed with guidance elements and sources of inspiration providing the necessary background for developing the different sections of the description. The following **guidance documents from the European Commission** represent the primary source of information:

- a) *“ToR for pillar assessments contracted by entities requesting to be entrusted with implementation of the EU budget under indirect management - guidance note”*. DG DEVCO R2 - Audit and Control
- b) *“Guidance for Member States and Programme Authorities- Designation Procedure (under Articles 123 and 124 of Regulation (EU) No 1303/2013 and*

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<sup>1</sup> Hereinafter ENI CBC IR.

- Article 21 of the Regulation (EU) No 1299/2013”, EGESIF\_14-0013, especially the check list for assessing compliance of MCS,
- c) “Guidance on a common methodology for the assessment of management and control systems in the Member States”, EGESIF\_14-0010,
  - d) Articles 141, 143, 145 and 146 of the Financial Regulation (Regulation (EU) 966/2012), on accounting standards and financial reporting,
  - e) Commission Regulation (EC) No 1126/2008 adopting certain international accounting standards in accordance with Regulation (EC) No 1606/2002 of the European Parliament and of the Council.

Furthermore, we have reviewed the **standards issued by the international bodies dealing with audit and internal control**, such as INTOSAI, IFAC or the Committee of Sponsoring Organizations of the Treadway Commission (COSO). Other standards, such as the COBIT Framework and related ISO standards for IT systems or International Standards for Public Sector Accounting (ISPAS), have been consulted as well.

Finally, this guidance takes into account the **experience of some programmes in the development of their DMCS**, in particular the Black Sea Basin, Italy-Tunisia, Mediterranean Sea Basin, Poland-Belarus-Ukraine and Estonia-Russia ENI CBC programmes.

### Clarification on update June 2017

Based on exchanges with DG NEAR, the contents of the document originally delivered in March 2016 have been modified, as follows:

- ❖ In section 2.2.10 references are now made also to the body responsible for the detection of irregularities/anti-fraud measures and the body that will assist the MA in case of recoveries (especially in the CBC Partner Countries).
- ❖ Section 9 on modification of the DMCS has been slightly reworded.

## Indicative outline

### 1. Introduction

- 1.1. Legal framework
- 1.2. Aim and content of the document

### 2. Functions, internal organization and resources for programme management bodies

- 2.1. Overview of the programme structures
- 2.2. Functions, internal organization and resources
  - 2.2.1 *Joint Monitoring Committee (JMC)*
  - 2.2.2 *Managing Authority (MA)*
  - 2.2.3 *Intermediary body(ies) (IB)*
  - 2.2.4 *Joint Technical Secretariat (JTS)*
  - 2.2.5 *National Authorities (NAs)*
  - 2.2.6 *Control Contact Points (CCPs)*
  - 2.2.7 *Audit Authority (AA) and Group of Auditors (GoA)*
  - 2.2.8 *Branch Office (BOs)*
  - 2.2.9 *Project Selection Committee (PSC)*
  - 2.2.10 *Bodies responsible for anti-fraud and anti-corruption*
  - 2.2.11 *Other national bodies involved*

### 3. Description of procedures for selecting and awarding projects

- 3.1 Description of the procedures for the calls for proposals and procedures in case of direct award, if applicable (for LIPs)
- 3.2. Documents to be provided to applicants
- 3.3. Publicity
- 3.4. Procedures to inform about results and procedures for complaints
- 3.5. Procedures for contracting
- 3.6. Procedures to ensure the respect of the 20% flexibility rule for activities outside the programme area
- 3.7. Procedures to avoid the duplication of activities financed by EU

### 4. Description of management and control procedures

- 4.1. Procedures for smooth project implementation
- 4.2. Procedures for ensuring the correctness and regularity of expenditure declared
- 4.3. Procedures for processing and authorising payments
- 4.4. Electronic data systems for collecting, recording and storing data for monitoring, evaluation, financial management, control and audit purposes
- 4.5. Procedures for programme accounting and reporting

- 4.6. Procedures for putting in place effective and proportionate antifraud measures
- 4.7. Systems and procedures to ensure adequate audit trail
- 4.8. Technical assistance

**5. Information and communication**

**6. Monitoring internal control by the Managing Authority**

**7. Risk management by the Managing Authority**

**8. Procedures for auditing the functioning of the management and control systems, the accounts and operations**

- 8.1. Audit strategy
- 8.2. Risk assessment
- 8.3. Implementation of audit of annual accounts, management and control systems and operations
- 8.4. Procedures for monitoring the implementation of recommendations and corrective measures resulting from audit reports

**9. Procedures for the modification of DMCS**

## Link between proposed outline and ENI CBC Implementing Rules

Each section of the outline, excluding the introductory chapter and the one on modification of DMCS, is contributing to specific requirements of the Implementing Rules, either to article 30 or to the Annex (or both). The following table is showing these contributions:

Chapter/section	Article 30 of ENI CBC IR	Annex of ENI CBC IR
1. Functions (...) for programme bodies	Points (a), (d) & (i)	Point 1 & Point 3 (xi)
2. Description of procedures for selecting and awarding projects	Point (h)	Point 3 (i)
3. Description of management and control procedures		
3.1. Procedures for smooth project implementation	-	Point 3 (ii) & (vi)
3.2. Procedures for ensuring correctness and regularity of expenditure declared	(b) & (g)	Point 1 (iii) & point 3 (iii)
3.3. Procedures for processing and authorising payments	-	Point 3 (iv)
3.4. Electronic data systems (...)	(c)	Point 3 (v)
3.5. Procedures for accounting and reporting	-	Point 3 (viii) & (x)
3.6. Procedures for putting in place effective and proportionate anti-fraud measures	-	Point 3 (ii) & (vii)
3.7. Systems and procedures to ensure adequate audit trail	(f)	Point 3 (ix)
3.8. Technical assistance	(h)	-
4. Information and communication	-	Point 4
5. Monitoring	-	Point 5
6. Risk management	-	Point 2
7. Procedures for auditing the functioning of the management and control systems, the accounts and operations	(e)	-

## Guidance for each chapter

### 1. Introduction

#### 1.1. Legal framework

Article 32 of the Financial Regulation stipulates that:

- “1. The budget shall be implemented in compliance with **effective and efficient internal control** as appropriate in each method of implementation, and in accordance with the relevant sector-specific rules.
2. For the purposes of the implementation of the budget, internal control is defined as a process applicable at all levels of management and designed to provide reasonable assurance of achieving the following objectives:
- Effectiveness, efficiency and economy of operations<sup>2</sup>;
  - Reliability of reporting;
  - Safeguarding of assets and information;
  - Prevention, detection, correction and follow-up of fraud and irregularities;
  - Adequate management of risks relating to the legality and regularity of the underlying transactions, taking into account the multiannual character of programmes, as well as the nature of the payments concerned.”

#### Effective internal control

- Segregation of duties;
- An appropriate risk management and control strategy, including control at recipient level;
- Avoidance of conflict of interest;
- Adequate audit trails and data integrity in data systems;
- Procedures for monitoring of performance and for follow-up of identified internal weaknesses and exceptions;
- Periodic assessment of the sound functioning of the internal control system.

#### Efficient internal control

- The implementation of an appropriate risk management and control strategy coordinated among appropriate actors involved in the control chain;
- The accessibility for all appropriate actors in the control chain of the results of controls carried out;
- Reliance, where appropriate, on management declarations of implementation partners and independent audit opinions, provided that the quality of the underlying work is adequate and acceptable and that it was performed in accordance with agreed standards;

<sup>2</sup> Article 30 of Financial Regulation 966/2012



- The timely application of corrective measures including, where appropriate, dissuasive penalties;
- Clear and unambiguous legislation underlying the policies;
- The elimination of multiple controls;
- Improving the cost-benefit ratio of controls.

According to Article 30 of the ENI CBC IR, the description of the programme management and control system (DMCS) will include:

- (a) the functions of each body involved in management and control, including division of functions within each body, their internal organisation in compliance with the principle of separation of functions between and within such bodies;*
- (b) procedures for ensuring the correctness and regularity of expenditure declared;*
- (c) electronic data systems for accounting, storage, monitoring and reporting;*
- (d) arrangements for auditing the functioning of the management and control systems;*
- (e) systems and procedures to ensure an adequate audit trail;*
- (f) procedures for prevention, detection and correction of irregularities, including fraud and the recovery of amounts unduly paid, together with any interest;*
- (g) contract award procedures for technical assistance and projects selection procedures*
- (h) the role of national authorities and the responsibilities of the participating countries*

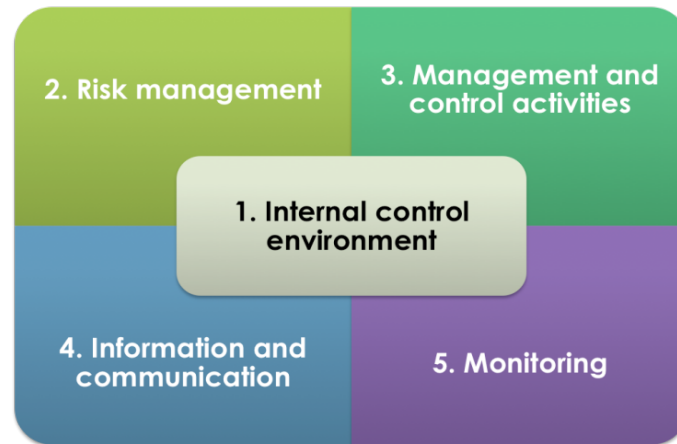
## **1.2. Aim and content of the DMCS**

The document with the description of the management and control systems is the basis for the designation of the MA, following the criteria set out in the annex and the process described in Article 25 of ENI CBC IR. Beyond this compliance goal, the DMCS is the key document to ensure a smooth programme and project implementation, which should also allow avoiding or minimising the risk of financial liabilities, both for the participating countries and the beneficiaries.

As indicated in the annex to the ENI CBC IR, *"the designation procedure shall be based on the following components of internal control"*<sup>3</sup>:

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<sup>3</sup> See INTOSAI GOV. 9100 "Guidelines for Internal Control Standards for the Public Sector" and "Executive Summary of Internal Control - Integrated Framework" by COSO (Committee of Sponsoring Organizations of the Treadway Commission).



The COSO framework defines 17 principles of internal control<sup>4</sup>, included in these 5 areas:

Control environment	Risk assessment	Control activities	Information & communication	Monitoring activities
<ul style="list-style-type: none"> <li>• Demonstrates commitment to integrity and ethic values</li> <li>• Exercises oversight responsibilities</li> <li>• Establishes structure, authority &amp; responsibilities</li> <li>• Demonstrates commitment to competence</li> <li>• Enforces accountability</li> </ul>	<ul style="list-style-type: none"> <li>• Specifies suitable objectives</li> <li>• Identifies and analyses risks</li> <li>• Assesses fraud risk</li> <li>• Identifies and analyses significant changes</li> </ul>	<ul style="list-style-type: none"> <li>• Selects &amp; develops control activities</li> <li>• Selects &amp; develops general control over Technology</li> <li>• Deploys through policies and procedures</li> </ul>	<ul style="list-style-type: none"> <li>• Use relevant information</li> <li>• Communicates internally</li> <li>• Communicates externally</li> </ul>	<ul style="list-style-type: none"> <li>• Conducts on-going and/or separate evaluations</li> <li>• Evaluates &amp; communicates deficiencies</li> </ul>

For an effective and efficient internal control within the meaning of article 32 of the Financial Regulation to exist, the COSO framework presumes that all 17 principles are present and functioning. If a principle is not present and functioning, the same judgement applies to the associated component. Even if unlikely, it may be decided that a principle is not relevant; in that case, the management must be able to support such determination and ensure how, in the absence of that principle, the associated component can be considered still efficient.

<sup>4</sup> All these principles can be found in the annex of the ENI CBC IR.



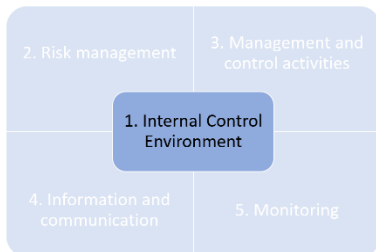
The COSO framework defines an **internal control deficiency** as “a shortcoming in one or more components and relevant principles that reduces the likelihood that an entity can achieve its objectives”. The framework requires management to use judgment to assess the severity of that deficiency in determining whether the relevant principle and component are present and functioning. If, in management’s judgment, a control deficiency severely reduces the likelihood that the entity can achieve its objectives, then it is defined as a major deficiency under the framework. If a major deficiency exists, management would conclude that the component is not present and functioning and the system of internal control is not effective.

EU criteria for the **definition and assessment of deficiencies** in ESIF is defined in the “Guidance on a common methodology for the assessment of management and control systems in the Member States”<sup>5</sup>. It can be adapted and used in the framework of ENI CBC, with the aim of avoiding the consequences of serious systemic deficiencies, as defined in articles 72 and 74 of the ENI CBC IR.

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<sup>5</sup> EGESIF\_14-0010.

## 2. Functions, internal organization and resources for programme management bodies



In relation to the bodies, functions and organisation described in the JOP, the DMCS should include enough elements to demonstrate adequate resources and an adequate internal control environment:

- **An organisational structure** covering the functions of managing authority and the allocation of functions between and within each body as described in Title IV Chapter 2 of the IR, ensuring that the principle of segregation of functions, where appropriate, is respected
- **If the delegation of tasks to intermediate bodies**, a framework for ensuring the definition of their respective responsibilities and obligations, verification of their capacities to carry out delegated tasks and the existence of reporting procedures
- **Reporting and monitoring procedures** for preventing, detecting and correcting irregularities and for recovering amounts unduly paid<sup>6</sup>.
- **Plan for allocation of appropriate human resources** with necessary skills, at different levels and for different functions in the organisation.

This chapter contributes to article 30.1 (a) of ENI CBC IR.

### 2.1. Identification of programme structures

The DMCS should provide general information and an organigram showing the organizational relationship between the bodies involved in the management and control systems including the reporting lines to EC:

- Joint Monitoring Committee
- Managing Authority
- Intermediary body(ies)
- Joint Technical Secretariat
- Audit Authority and Group of Auditors
- National Authorities (NA)
- Control Contact Points (CCP)

<sup>6</sup> Even if presented under “*internal control environment*” in the annex to the ENI CBC IR, for the purpose of this outline this point is covered under component 4 – “*Description of management and control procedures*”.

- Branch Office (BO)
- Project Selection Committee (PSC)
- Bodies responsible for anti-fraud and anti-corruption
- Other bodies involved at national level

## **2.2. Functions, internal organization and resources**

### *2.2.1. Joint Monitoring Committee (JMC)*

- Position and contact data of the chairman and secretary of the JMC, when appointed;
- Composition of JMC (art. 22 of ENI CBC IR);
- Specification of the functioning and functions (art. 23 & 24 of ENI CBC IR).

### *2.2.2. Managing Authority (MA)*

- Name, address and contact person;
- The date and form of formal appointment of the MA to carry out its functions (art. 20 of ENI CBC IR), as well as information concerning national level designation, when formalized (art. 25 of ENI CBC IR);
- Specification of the functions and under the responsibility of the MA (art. 26 of the ENI CBC IR);
- Functions delegated by the MA to intermediate bodies (identification of delegated functions and relevant arrangements) (art. 20 of the ENI CBC IR);
- Organization chart and specifications of the functions of the units (including indicative number of posts allocated and job descriptions);
- Reference to the written code of ethics;
- Reference or description of the human resources policies and practices in areas such as recruitment, orientation, training, evaluation, counselling, promotion, and remuneration;
- Procedures for change or replacement of staff in case of long-term absences;
- Procedures for staff assessment;
- Identification of the sensitive posts and the controls applied to them;
- Procedure for prevention and avoidance of conflicts of interest and how they are dealt, should cases arise;
- Where the institution hosting the Managing Authority is also a beneficiary under the programme, arrangements for the verifications ensuring suitable segregation of functions.

### *2.2.3. Intermediary body(ies) (IB)*

- Name, address and contact person;
- Specification of the functions and tasks carried out by the IB (from the list of functions in art. 26 of the ENI CBC IR), ensuring a framework for the definition of

- their respective responsibilities and obligations, including the existence of reporting procedures (Point 1 (ii) of Annex I of IR);
- Organization chart and specifications of the functions of the units (including indicative number of posts allocated and job description);
  - Reference to the written code of ethics;
  - Reference or description of the human resources policies and practices in areas such as recruitment, orientation, training, evaluation, counselling, promotion, and remuneration;
  - Reference to the existence of manuals of procedure;
  - Procedures for change or replacement of staff in case of long-term absences;
  - Procedures for staff assessment;
  - Identification of the sensitive posts and the controls applied to them;
  - Procedure for prevention and avoidance of conflicts of interest and how they are dealt, should cases arise;
  - Procedures for making available to the IB and the beneficiaries the information relevant to the execution of their tasks and the implementation of the projects;
  - Procedures set up by MA for the supervision of the implementation of the delegation functions appropriate;
  - Procedures for reporting and monitoring between MA and IB on the basis of adequate reporting mechanisms (review of IB's methodology, regular review of results reported by the IB, re-performance on a sample basis of work carried out by IB);
  - Procedures for regular monitoring and verifying whether conditions for internal control are respected or not;
  - Procedures set up by MA to verify the capacity of the IB to carry out the delegated tasks (Point 1 (ii) of the Annex of IR).

#### *2.2.4. Joint Technical Secretariat (JTS)*

- Name, address and contact person;
- Specification of functions and tasks in support of MA & AA (art. 27 of the ENI CBC IR);
- Indication of any delegation of tasks, resulting in JTS as intermediate body;
- Organization chart and specification of the functions of the units (including indicative number of posts allocated and job description);
- Reference to the written code of ethics;
- Reference or description of the human resources policies and practices in areas such as recruitment, orientation, training evaluation, counselling, promotion, and remuneration;
- Reference to the existence of manuals of procedure;

- Reference or description of the human resources policies and practices in areas such as recruitment, orientation, training evaluation, counselling, promotion, and remuneration;
- Procedures for change or replacement of staff in case of long-term absences;
- Procedures for staff assessment;
- Identification of the sensitive posts and the controls applied to them;
- Procedure for prevention and avoidance of conflicts of interest and how they are dealt, should cases arise).

#### *2.2.5. National Authorities (NAs)*

- Name, address and contact person for each National Authority;
- Specification of the functions and tasks carried out directly by each NA (art. 20 & 31 of the ENI CBC IR);
- Identification of national bodies other than NA, CCP and MoGoA carrying out functions in the management and control systems at national level;
- Organization charts and specification of the functions of the units involved (including indicative number of posts and person/days<sup>7</sup> allocated) for each NA.

#### *2.2.6. Control Contact Points (CCPs)*

- Name, address and contact person for each CCP;
- Specification of functions and tasks of the CCP in each of the participating countries (art. 20, 30 (2), 31, 32 of the ENI CBC IR);
- Organization chart and specification of the functions of the units involved (including indicative number of posts and person/days allocated) for each CCP;
- Arrangements ensuring independence of the CCP with the management component of the system.

#### *2.2.7. Audit Authority (AA) and Group of Auditors (GoA)*

- Name, address and contact person for the Audit Authority and each member of the GoA (MoGoA);
- Description of the tasks and inter-relationships of the AA and the MoGoA (art. 28 of the ENI CBC IR);
- Organization charts for the AA and each institution member of the GoA (including the number of posts and person/days allocated);
- Required qualification and experience;
- Arrangements ensuring independence of the AA and members of GoA with the management and control components of the system, as well as arrangements

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<sup>7</sup> When not full-time posts.



ensuring independence where audits are carried out by a body other than the Audit Authority and MoGoA (art. 28, art 32.4 of the ENI CBC IR).

#### *2.2.8. Branch Office (BOs)*

- Name, address and contact person;
- Specification of functions and tasks (art. 27 of the ENI CBC IR);
- Organization chart and specification of the functions of the units (including indicative number of posts allocated and job description);
- Reference to the written code of ethics;
- Reference or description of the human resources policies and practices in areas such as recruitment, orientation, training evaluation, counselling, promotion, and remuneration;
- Reference to the existence of manuals of procedure;
- Reference or description of the human resources policies and practices in areas such as recruitment, orientation, training evaluation, counselling, promotion, and remuneration;
- Procedures for change or replacement of staff in case of long-term absences;
- Procedures for staff assessment;
- Identification of the sensitive posts and the controls applied to them;
- Procedure for prevention and avoidance of conflicts of interest and how they are dealt, should cases arise).

#### *2.2.9. Project Selection Committee (PSC)*

- Position and contact data of the Chairman and Secretary of the PSC, when appointed;
- Specification of the functions and tasks (art. 24 of ENI CBC IR);
- Composition of PSC.

#### *2.2.10. Bodies responsible for anti-fraud and anti-corruption*

- Identification of the institutions having the appropriate powers to cooperate directly with the European Anti-Fraud Office (OLAF) in anti-fraud and anti-corruption measures, both in Member States (AFCOS) and in the CBC Partner Countries, as indicated in the respective Financing Agreement.
- Specification of functions and tasks carried out by the body appointed in each country.



### 2.2.11. Other bodies involved at national level

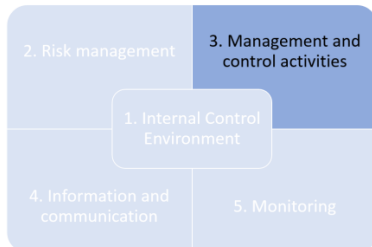
- Identification of other bodies involved at national level in supporting each NA for the effective functioning of the management and control system, *inter alia*<sup>8</sup>:
  - o Supervisory body for external auditors
  - o Tax and customs authorities
  - o Central bank
  - o Ministry responsible for regional and local authorities
- Specification of functions and tasks carried out by each body in each country.
- For CBC Partner Countries, specification of how the procedures defined in the Financing Agreements will be set up and how the National Authority will ensure its effective functioning.

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<sup>8</sup> This list is purely indicative. The actual list to be included for each country should be based on the institutions that will be effectively involved in processes affecting the implementation of the programme and of the approved projects.



### 3. Description of procedures for selecting and awarding projects



In relation to the **selection procedures**, the DMCS should include enough elements to demonstrate that they ensure the principles of transparency, equal treatment, non-discrimination, objectivity and fair competition. With a view to respect these principles:

- a. the projects shall be selected and awarded on the basis of **pre-announced selection and award criteria** which are defined in the evaluation grid. The selection criteria serve to assess the applicant's ability to complete the proposed action or work programme. The award criteria are used to assess the quality of the project's proposal against the set objectives and priorities;
- b. the grants shall be subject to ex ante and ex post **publicity rules**;
- c. the applicants shall be informed in writing about the **evaluation results**. If the grant requested is not awarded, the Managing Authority shall provide the reasons for the rejection of the application with reference to the selection and award criteria that are not met by the application;
- d. any **conflict of interest shall be avoided**;
- e. the **same rules and conditions** shall be applied to all applicants.

This section contributes to article 30.1 (h) of IR and should include:

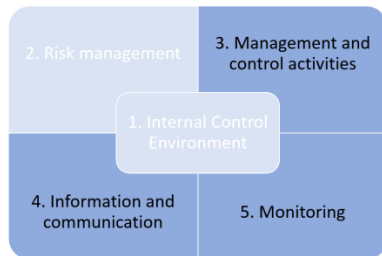
- Description of the procedures for the calls for proposals and procedures in case of direct award, if applicable (art. 24.3, 26.3 of the ENI CBC IR and 41 for direct award);
- Documents to be provided to applicants setting out the conditions for participation in the call, selection and implementation of the project (art. 40 of ENI CBC IR);
- Ex-ante and ex-post publicity rules, including description of procedures to ensure that adequate information is provided to (potential) beneficiaries and general public (art. 44, 79 of the ENI CBC IR);
- Procedures to inform about evaluation results and procedures for complaints
- Procedures for contracting, including the document setting out the conditions for support for each project (art. 40 and 26.3 of ENI CBC IR)

- Procedures to ensure the respect of the 20% flexibility rule for activities outside the programme area (art. 39.2 of the ENI CBC IR)
- Procedures to ensure the respect of the criteria for beneficiaries outside the programme area (art. 45.4 of the ENI CBC IR)
- Procedures to avoid the duplication of activities financed by EU (art. 39.4 of the ENI CBC IR)

### **Note concerning the application pack**

For the purposes of the requirements above, it can be concluded that, out of the entire application pack, **the two documents certainly needed at the stage of preparation of the DMCS are the guidelines for grant applicants and the grant contract**. Other application documents (application form and annexes to the grant contract), while certainly necessary, can be developed at a later stage.

## 4. Description of management procedures



In relation to the management procedures, this chapter of the DMCS should include the elements giving answer to the following components of internal control indicated in the annex of the ENI CBC IR:

3. Management and control activities
4. Information and communication
5. Monitoring internal control

### 4.1. Procedures for smooth project implementation

The foundations of the success of the programme, both at strategic and operational level, lies in the projects which will be funded. Therefore, a smooth project implementation, following the principles of sound financial management<sup>9</sup>, is the first step in an adequate internal control system.

This section contributes to point 3 (ii) of the Annex of ENI CBC IR and shall include:

- Procedures to be ensured by the Lead Beneficiary, including separate accounting system, adequate accounting codes, instructions for retention of documents, etc.
- Procedures to be ensured by the other project beneficiaries
- Procedures to be ensured at national level<sup>10</sup>, such as:
  - o Selection of auditors/controllers carrying out expenditure verification
  - o Project registration, when relevant
  - o Tax and customs exemption
  - o Opening bank accounts in Euro and transferring funds abroad
  - o Integration of project budget in the budget of public administrations
  - o Derogation to certain national procurement rules
  - o Anti-fraud and anti-corruption measures and information mechanisms

<sup>9</sup> See article 30 of Financial Regulation.

<sup>10</sup> This subsection should include specific relevant procedures for each participating country. In the case of CBC Partner Countries, the provisions should take into account the contents of the Financing Agreement.

- Procedures established by MA to ensure that beneficiaries maintain either separate accounting system or an adequate accounting code for all transactions related to a project (art. 48.2 (d) of the ENI CBC IR)
- Grant contract modifications

#### **4.2. Procedures for ensuring the correctness and regularity of expenditure declared**

This section contributes to article 30.1 (b) and (g) and points 3 (iii), 3 (iv), 3 (vi), 3 (vii), 3 (x) and 3 (xi) of the Annex of ENI CBC IR, as well as the provisions included in the Financing Agreements with CBC Partner Countries and shall include:

- Rules on eligibility of expenditure (art.4 (j), 14, 48, 49, 50, 51 of the ENI CBC IR), including any additional rule laid down at programme or at national level
- Verification procedures, including administrative verifications in respect of each payment request by beneficiaries and the on-the-spot verifications of projects (art. 26.5, 26.6, 26.7, 32.1, 32.2 of the ENI CBC IR)<sup>11</sup>.
- Procedures ensuring compliance with procurement, state aid rules and visibility requirements (art. 12, 52, 53, 54, 55, 56, 79 of the ENI CBC IR)
- Systems for monitoring and reporting, [including cases] where the responsible body entrusts execution of tasks to another body
- Procedures to prevent, detect and correct irregularities and fraud, including the recoveries of unduly paid amounts (art. 30, 31.3 and 71 of the ENI CBC IR)
- Assurance of the access to controls by the Union in the meaning of article 33 of the ENI CBC IR, both by the MA and the National Authorities
- Apportionment of liabilities among the participating countries in case of systemic deficiencies (art. 4 (k) and 74 of the ENI CBC IR)
- Procedures for the recovery of unduly spent amounts and arrangements for keeping a debtors' ledger (art. 74, 75 and 76 of the ENI CBC IR). These recoveries should also include the procedures to be carried out by the participating countries in the contentious cases where MA is reimbursed by the country, both Member States and Partner Countries. This procedure in the DMCs, as well as the grant contract, should clearly reflect how the beneficiary is the ultimate responsible for reimbursing the funds in any case.

#### **4.3. Procedures for processing and authorising payments**

This section contributes to point 3 (iv) of the Annex of ENI CBC IR and may include:

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<sup>11</sup> In case of verification of expenditure by competent and independent public officers, these shall include written procedures set at national level for submission of documents by beneficiaries.

- Procedures for the initial, intermediate and final payments from MA to lead beneficiaries
- Procedures for the payment from the lead beneficiaries to the other project beneficiaries
- Procedures for payment of the Technical Assistance to other programme bodies and contractors

#### **4.4. Electronic data systems for collecting, recording and storing data for monitoring, evaluation, financial management, control and audit purposes<sup>12</sup>**

This section contributes to article 30.1 (c) and point 3 (v) of the Annex of ENI CBC IR and may include:

- Description of the monitoring and evaluation systems and procedures (art. 4.5 (f), 77 and 78 of the ENI CBC IR)
- Description of the software (IT systems) to be used and/or developed by the Managing Authority for programme accounting, as well as for collecting, recording and storing electronically data on each project, ensuring it is secure and in line with internationally accepted standards<sup>13</sup> (art. 26 (d) of the ENI CBC IR)
- Indication as to whether the system is already operational to gather reliable financial and statistical information on the implementation of the programme. If not, indication of the date when it will be operational.

#### **4.5. Procedures for accounting and reporting<sup>14</sup>**

This section contributes to points 3 (viii) and (x) of the Annex of ENI CBC IR and may include:

- Procedures, principles and standards for drawing up programme accounts, which ensure that they are true, complete and accurate and that the expenditure complies with the applicable rules
- Procedures to draw up the management declaration of assurance
- Procedures to draw up the annual report, including *inter alia* the report on the controls carried out and weaknesses identified, and the annual summary of final audits and controls

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<sup>12</sup> See **Guide for Management and Information Systems** by TESIM for further details.

<sup>13</sup> Such as the COBIT (Control Objectives for Information and related Technology) framework and the internationally accepted standards: ISO/IEC standard 27001:2013 and ISO/IEC standard 2007:2013. It may include the IT systems supporting project applicants and beneficiaries, such as electronic registration of potential applicants, submission of proposals, on-line project accounting and project electronic reporting.

<sup>14</sup> See **Guide on accounts and audit** by TESIM for further details.

Please refer to articles 141, 143, 145 and 146 of the Financial Regulation for the principles and content of accounts and reports. Refer also for guidance to Commission Regulation (EC) No 1126/2008 adopting certain international accounting standards<sup>15</sup>.

#### **4.6. Procedures for putting in place effective and proportionate antifraud measures**

This section contributes to article 30.1 (g) and point 3 (vii) of the Annex of ENI CBC IR and may include:

- Risk analysis and proportionate anti-fraud measures (art. 26.5, 30.1, 31.3 and 33 of the ENI CBC IR)

The “*Guidance note on fraud risk assessment and effective and proportionate anti-fraud measures*” for the programming period 2014-2020 may be adapted and used as a source of inspiration<sup>16</sup>.

#### **4.7. Systems and procedures to ensure adequate audit trail**

This section contributes to article 30.1 (f) and point 3 (ix) of the Annex of the ENI CBC IR and may include:

- Procedures to ensure an adequate audit trail and archiving system at the level of each programme body, including evidence that accounting records and supporting documents are kept at the appropriate management level. (art. 26.5, 30.1 and 70 of the ENI CBC IR)
- Instructions provided to the beneficiaries on the retention of supporting documents (art. 48.2 and 70 of the ENI CBC IR)

#### **4.8. Technical assistance**

This section contributes to article 30.1 (h) and points 3 (ii) and 3 (iv) of the Annex of the ENI CBC IR and may include:

- Rules of eligibility of expenditure for technical assistance (art. 34, 35 and 36 of the ENI CBC IR)
- Contract award procedure for technical assistance by the MA and other programme bodies concerned (art. 4 € 30.1 (h), 37 of the ENI CBC IR)
- Procedures for the use of technical assistance funds by other bodies than the MA and JTS

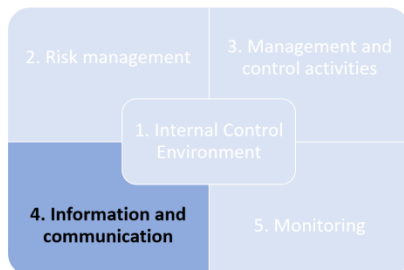
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<sup>15</sup> International Standards for Public Sector Accounting (ISPAS). Even though the Regulation refers to the former Financial Regulation (1605/2002), it has not been updated, so it remains valid.

<sup>16</sup> [https://ec.europa.eu/sfc/sites/sfc2014/files/sfc-files/guidance\\_fraud\\_risk\\_assessment.pdf](https://ec.europa.eu/sfc/sites/sfc2014/files/sfc-files/guidance_fraud_risk_assessment.pdf)

## 5. Information and communication

This section contributes to point 4 of the Annex of the ENI CBC IR.



*In relation to information, the DMCS should provide contents demonstrating that:*

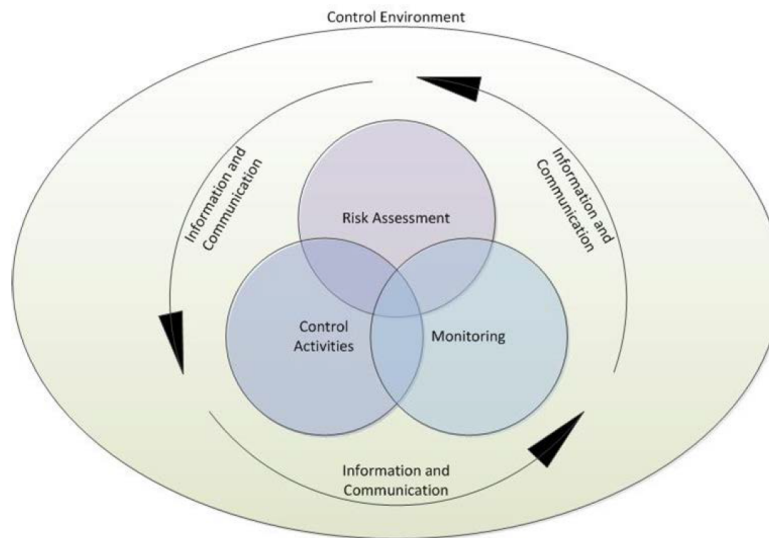
- (i) *The Managing Authority **obtains or generates and uses relevant information** to support the functioning of other components of the internal control;*
- (ii) *The Managing Authority **internally disseminates information**, including objectives and responsibilities for internal control, necessary to support the functioning of other components of the internal control;*
- (iii) *The Managing Authority **communicates with external parties** regarding matters affecting the functioning of other components of internal control.*

The INTOSAI Gov 9100 and the COSO framework may be used a source of inspiration for the description of the information and communication mechanisms of internal control, which should not be mistaken by the information and communication strategy of the programme.

It has to be taken into account that **this component does not stand alone, but is rather embedded in every other part of the internal control framework**, such that none of the other components is effective without it, as is shown in the chart below<sup>17</sup>.

<sup>17</sup> Source of charts: COSO framework.





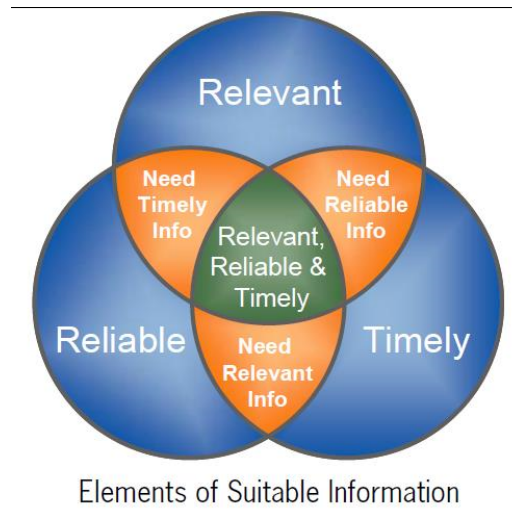
See an example below of the type of procedures to be included in the section, from the COSO framework:

#### Information and Communication – Relationship to Other COSO Components

	<b>Information component</b>	<b>Communication component</b>
Control Environment	A written ethics policy.	Management's message to employees concerning ethics through their daily words and actions.
Risk Assessment	Documentation produced from a risk assessment.	A subject matter expert's description of a process during a risk assessment meeting.
Control Activities	Written policies and procedures for entering transactions into an accounting system.	A manager's review of pertinent policies with key employees.
Monitoring	A written plan to review a sample of transactions to test a control.	A weekly staff debrief after a supervisor's review of the sample of transactions.

“A precondition for **reliable and relevant information** is the prompt recording and proper classification of transactions and events. Pertinent information should be identified, captured and communicated in a form and timeframe that enables staff to carry out their internal control and other responsibilities (timely communication to the right people). Therefore, the internal control system as such and all transactions and significant events should be fully documented.

Management's ability to make appropriate decisions is affected by the quality of information, which implies that the information should be appropriate, timely, current, accurate and accessible<sup>18</sup>, as shown in the chart below:

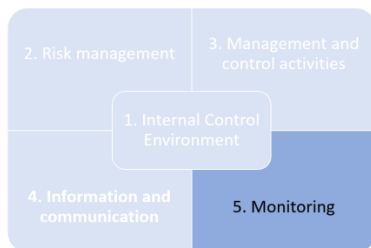


On the other hand, "effective communication should flow down, across, and up the organisation, throughout all components and the entire structure. All personnel should receive a clear message from top management that control responsibilities should be taken seriously. They should understand their own role in the internal control system, as well as how their individual activities relate to the work of others. There also needs to be effective communication with external parties."

<sup>18</sup> From INTOSAI Gov, 9100

## 6. Monitoring internal control by the Managing Authority

This section contributes to point 5 of the Annex of the ENI CBC IR.



The DMCS should include documented procedures, verifications and evaluations performed to ascertain that the components of internal control exist and function.

Regular and adequate feedback to management is required on the performance of the internal control systems, through an internal audit function or equivalent systems monitoring function.

The INTOSAI Gov 9100, INTOSAI Gov 9110 and the COSO framework may be used as a source of inspiration for the description of the monitoring and evaluation of the internal control, which should not be confused with the programme's monitoring and evaluation procedures of the operating performance, included in chapter 4.4.

*"Internal control systems should be monitored to assess the quality of the system's performance over time. Monitoring is accomplished through routine activities, separate evaluations or a combination of both.*

### (1) Ongoing monitoring

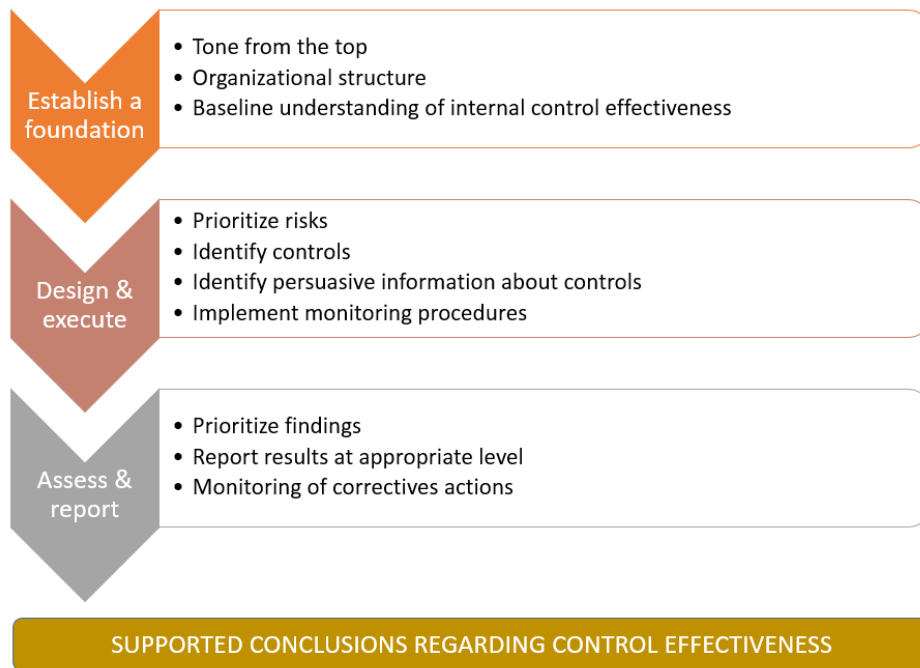
- Ongoing monitoring of internal control is built into the normal, recurring operating activities of an entity. It includes regular management and supervisory activities, and other actions personnel take in performing their duties.
- Ongoing monitoring activities cover each of the internal control components and involve action against irregular, unethical, uneconomical, inefficient and ineffective internal control systems.

### (2) Separate evaluations

- The scope and frequency of separate evaluations will depend primarily on an assessment of risks and the effectiveness of ongoing monitoring procedures.
- Specific separate evaluations cover the evaluation of the effectiveness of the internal control system and ensure that internal control achieves the desired results based on predefined methods and procedures.
- Internal control deficiencies should be reported to the appropriate level of management.

Monitoring should ensure that audit findings and recommendations are adequately and promptly resolved.<sup>19</sup>

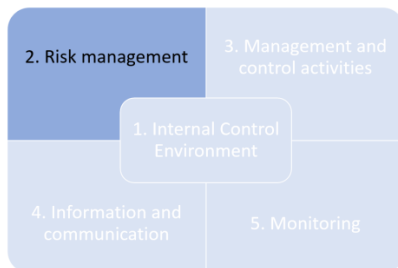
See also COSO's "Guidance on Monitoring Internal Control Systems", which describes the monitoring systems for internal control as follows:



The systems audit, which will be carried out by the Audit Authority, does not preclude the obligation of the Managing Authority to monitor the correct functioning of the internal control system, either directly or through an internal audit unit of the hosting institution.

<sup>19</sup> From INTOSAI Gov, 9100

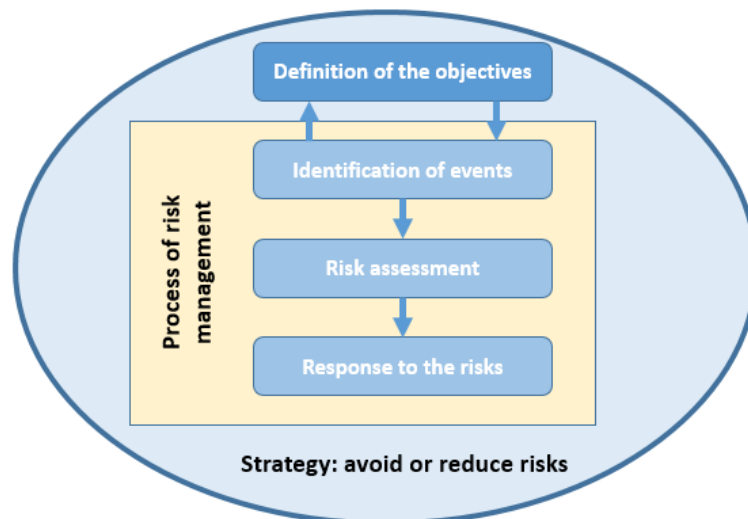
## 7. Risk management by the Managing Authority



The DMCS should include the procedures for risk management:

*“Taking into account the principle of proportionality, description of the system put in place for ensuring that an appropriate risk management exercise is conducted at least once per year, and in particular, in the event of major modifications of the activities.”*

The aim of the risk management is to avoid or reduce risks, with the following steps:



Therefore, each programme will need to define its own objectives for internal control in line with article 32 of Financial Regulation. **The establishment of the objectives is a pre-condition for the risk assessment.**

As defined by COSO, the following points of focus highlight important characteristics relating to operational, financial and compliance objectives:

### Operational objectives

- These objectives reflect management's choices about structure and performance of the entity
- Management considers the tolerance for risk, that is, the acceptable level of variation relative to the achievement of the operational objectives
- The objectives include performance goals
- They form a basis for committing the available resources

### **External financial reporting objectives**

- Comply with applicable accounting standards, with principles suitable and available for the entity
- Management considers materiality in financial statement presentation
- Reflect the activities of the entity

### **External non-financial reporting objectives**

- Comply with applicable legal framework, namely the Implementing Rules
- Consider the adequate level of precision for the users' needs
- Reflect the activities of the entity

### **Internal reporting objectives**

- Provide management with accurate and complete information
- Consider the adequate level of precision for the users' needs
- Reflect the activities of the entity

### **Compliance objectives**

- Reflect applicable framework and establish minimum standards of conduct
- Consider tolerance of risk, that is, the acceptable level of variation relative to the achievement of the compliance objectives

On a yearly basis, the MA will identify the potential events putting at risk their achievement in accordance with the programme cycle, carry out a risk assessment and define adequate measures to avoid or minimise these risks.

The main challenges for MA would be:

- making decisions which will be based on appropriately set processes reflecting the risks;
- performing strategic testing of risks and the risk analysis in reference to the programme's main objectives and strategy;
- managing processes efficiently and setting measurable key performance indicators;
- identifying potential risks to the successful implementation of projects and taking measures for their reduction;
- analysing the risks of misuse of EU funds;
- introducing a decision-making system which will be based on the appropriately set processes reflecting the risks.

The tools for the risk assessment may be the same as the ones used by the Audit Authority, but taking into account the specific goals of the risk management exercise.

The sources of inspiration for the risk management and risk assessment may be:

- INTOSAI GOV. 9100 “Guidelines for Internal Control Standards for the Public Sector”
- INTOSAI GOV 9310 “*Guidelines for Internal Control Standards for the Public Sector – Further Information on Entity Risk Management*”
- “Executive Summary of Internal Control - Integrated Framework” by COSO (Committee of Sponsoring Organizations of the Treadway Commission)
- “Guidance note on fraud risk assessment and effective and proportionate anti-fraud measures” for the programming period 2014-2020

This section should include:

- **Definition of objectives**
- **Procedures in place to conduct regular risk assessment exercises** (at least once per year and in case of major events), including who performs them, at what level are they performed (organisational level, specific-activities level, etc.), what kind of risks are identified (internal, external) and how they are documented.

## 8. Procedures for auditing the functioning of the management and control systems, the accounts and operations

In accordance with article 30.1 (c) of the ENI CBC IR, the DMCS will include the arrangements for auditing the functioning of the management and control systems. It may also include the procedures for the auditing of accounts and operations, in conformity with the relevant articles of the ENI CBC IR (art. 28, 30.1, 68 & 77).

Therefore, the programme shall ensure the existence of procedures, verifications and evaluations, which are performed to ascertain that the components of internal control exist and function, including:

- Procedures to set up an audit strategy, including risk assessment and sampling method
- Procedures and manuals developed, based on internationally accepted audit standards, for the arrangements on auditing:
  - a) the functioning of the management and control systems;
  - b) an appropriate sample of projects
  - c) the annual accounts of the programme
- Description of procedures for drawing:
  - a) an audit opinion on the annual accounts for the preceding accounting year;
  - b) an annual audit report.
- Description of procedures for monitoring the implementation of the recommendations and corrective measures resulting from the audit reports
- Description of procedures (where appropriate) for supervision of the work of other audit bodies under the responsibility of the Audit Authority

The procedures may take into account and adapt to the context and regulatory framework of ENI CBC the following documents:

- *TESIM Guidance to programme accounts, audit and reporting*
- *"Guidance for Member States on the Annual Control Report and Audit Opinion"* EGESIF\_15-0002-02
- *"Guidance for Member States on Audit Strategy"* EGESIF\_14-0011-02
- *"Guidance on sampling methods for audit authorities"* COCOF\_08-0021-03\_EN<sup>20</sup>
- *"Guidance note on the concept of reliance on the work of other auditors"* COCOF 09/0002/01-EN
- *"Guidance on treatment of errors disclosed in the annual control reports"* COCOF\_11-0041-01-EN

<sup>20</sup> A note on sampling for ENPI CBC programmes based on the 'small populations approach' was issued by INTERACT ENPI in 2009.



## 9. *Modification of the DMCS*

It shall be necessary to jointly decide about the modification of the DMCS, both at the request of EC during the designation procedure and during the programme implementation. On top of the willingness to adjust and improve the programme and project implementation, the most important reason for the modifications are the recommendations of the audit report. Not taking into consideration these recommendations may have financial consequences for all programme bodies and participating countries when considering the regulatory framework for the period 2014-2020. Therefore, the responsibility for approving the changes should lay down on the same bodies that should assume the financial liability in case of failure in the systems.

Notwithstanding financial responsibilities, the document will likely undergo minor modifications that can probably be decided by the MA alone, especially if they only affect internal procedures. In all cases, the JMC and the EC should be informed.

