Guidance note on Designation Procedure

Brian Debattista – Head of Sector Unit C3
DG Regional and Urban Policy
Annual Meeting with Managing Authorities of the ETC OPs
Brussels 20 May 2014
1. Purpose and introduction (1)

Purpose?
- To give practical guidance to MS

Which funds?
- Structural and Cohesion Funds (incl. ETC)
- European Maritime and Fisheries Funds

To whom?
- The body who will designate (MS)
- Independent Audit Body (IAB)
- The bodies involved in the management and control systems (MCS)
1. **Purpose and introduction (2)**

- Update previous guidance
  - **Attention**: The models for the report and opinion -> see Implementing Act
  - Checklist provided:
    - Recommended to be used as tool by MA+CA during the preparation of the MCS description and by the IAB to facilitate and record its work.
    - The checklist can be adapted to take account of any specific features of the MS management and control system.
2. Legal Basis (1)

- Articles 123 and 124 of CPR and Article 21 of the ETC Regulation;
- All authorities needs to be designated
- Art 124: Designation process?
  - the designation process of the MA/CA shall be based on a report and an opinion of an independent audit body that assesses the fulfilment by the authorities of the designation criteria.
2. Legal Basis (2)

- **Aim of the designation process?**
  to ensure that MA and CA have the necessary and appropriate management and control system set up from the start of the programming period to ensure that they can fulfil the responsibilities assigned to them.

- **Implementing acts on the report and the opinion of the IAB**
3. Notification of the Designation Decision

- **When?**
  - Prior to the submission of the first application of interim payments
  - --> based on a report and opinion by the IAB and system description;

- **What to be notified?**
  - MS to notify the date and form of designations, carried out at appropriate level of MA and CA
  - The type of opinion underpinning the designation;
  - The report and the MCS description is not to be send except if the Commission requests for the documents based on a risk assessment. (*see table below*)
4. Role of the Commission

For **OPs > €250m** and based on risk analysis

- **Commission** *may request* IAB's audit report, opinion and MCS within 1 month of notification
- **2 months** for Commission feedback

For **OPs > €250m** and MCS changed significantly from 2007-13

- **MS** *may submit* IAB's opinion and MCS within 2 months of notification of decision
- **3 months** for Commission feedback

- Commission approval of the designation process is **not** required

  —> **Big change compared to 2007-2013**
5. **Description of the functions of the designated bodies**

- The starting date for the assessment of the systems by IAB: submission of the (definitive) description
- To be prepared by different authorities -&gt; risk of delays, no coordination -&gt; body to coordinate?
- IB not included as such but written agreements!
- For ETC?
  - designation by MS of MA
  - IAB to be assisted by group of auditors.
6. Designation Criteria (1) (annex 13 of CPR)

(i) Control environment

(ii) Risk management

(iii) Management and control activities

(iv) Monitoring
6. Designation Criteria (2)

- Focus on setup not on functioning

- Encourage MSs to keep systems that are working well (cat 1 and cat 2, art 73)

- IAB may take into account whether the MCS is the same as in the current period and whether it has functioned effectively and, if so, it can conclude that the relevant designation criteria are fulfilled without carrying out additional audit work
6. Designation Criteria (3)

- **Quid?**
  - Interruption for 2007-2013 programming period? -> strengthen the MCS in cat 3 and cat 4

- **New criteria such as**
  - A framework Risk management
  - Procedures for putting in place Anti fraud measures
  - Procedures for drawing up management declaration/annual summaries/accounts
  - Procedures to ensure reliability of data on indicators/milestones/progress of the OP in achieving its objectives
7. Planning and Timing (IAB work)

- Adequate time including
  - Receipt of the Descriptions (including translation);
  - Analysis of the documents received;
  - Performance audit work;
  - Preparation of report and opinion;
  - Adequate time for the authorities to respond;
  - Reporting to the body who will designate
7. Planning and Timing (IAB work)

- **Timing to be agreed**
  - Identify the risks and plan the work including:
    - Review of relevant documents (laws, circulars, agreements between MS in the case of ETC, ..)
    - Use of the results of system audits
    - Examination of the procedures for new criteria
8. Extent of work

- To plan and execute the work necessary on the compliance of the designation criteria

- Using the IAA

- Opinion on the set up

- Not yet the practical effectiveness. Quid ? In case of continuation, you cannot ignore the practical effectiveness

- No testing on procedures
9. Report and Opinion on Compliance with the Designation Criteria(1)

- Report and opinion should be drawn up by IAB;

- To assess the compliance or non-compliance with one or more designation criteria relating to the Key Elements of the systems:
  - Non-compliance with one or more -> qualified or adverse
  - Partial compliance with one or more -> qualified or adverse
  - Wide raising non compliance -> Adverse opinion
10. Designation Decision

To designate or Not?

- Opinion of IAB adverse or qualified - no designation of that body;

- Opinion of IAB unqualified - the MS can designate.

The MA/CA to resolve all outstanding issues (action plan) in order to be able to conclude on a unqualified opinion.
11. Anti-Fraud measures

- The DC requires the MA to have procedures for putting in place effective and proportionate anti-fraud measures.

-> See: Checklist and guidance for more details
12. Treatment of interim payments

- Interim payments can start as soon as

  - The managing and certifying authorities have been designated;

  - The MS has notified the formal designation decision to the Commission following adoption of the OP (Article 124(1)).
13. Monitoring the Designation

- Supervision by the Member State is based on audit and control results;
- Introduction of a period of probation if MA/CA not fulfilling designation criteria - (no interruption of payments without prejudice to art. 74);
- The duration of the period of probation is not defined (but linked to the severity of the problem);
- Possibility to replace a designated body where criteria continue not to be met.
- Link guidance note on common system assessments.
Audit and control results

Supervision, the period of the probation and ending a designation

The designated authority no longer complies with the criteria underpinning designation

MS ends the designation of the authority and informs the COM

MS determines a period of probation for the authority to undertake remedial actions

MS informs the COM of the period of probation

Necessary remedial action is taken
• MS lifts the probation
• MS informs the COM

Necessary remedial action is not taken
• MS ends the designation
• MS informs the COM

MS designates another authority based on the applicable rules and informs the COM

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Thank you for your attention