



Annual Assurance and Irregularities

**Trainer : Dermot Byrne
Head of Authority
ERDF Audit Authority, Ireland**

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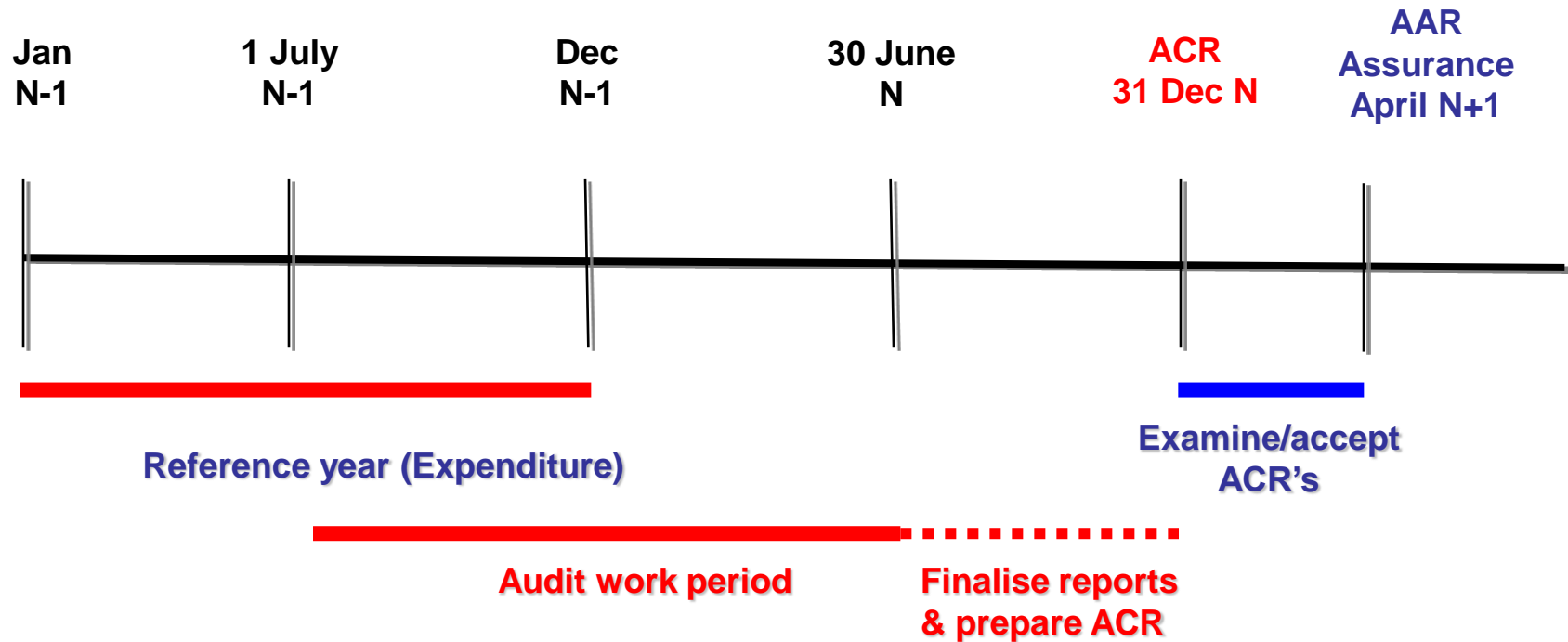
Contents of Presentation

- Annual assurance process
- Accounts closure
- Annual cycle and deadlines
- Examination and acceptance of accounts
- Interruptions and suspensions
- Treatment of irregularities
- Financial corrections / net corrections by Commission

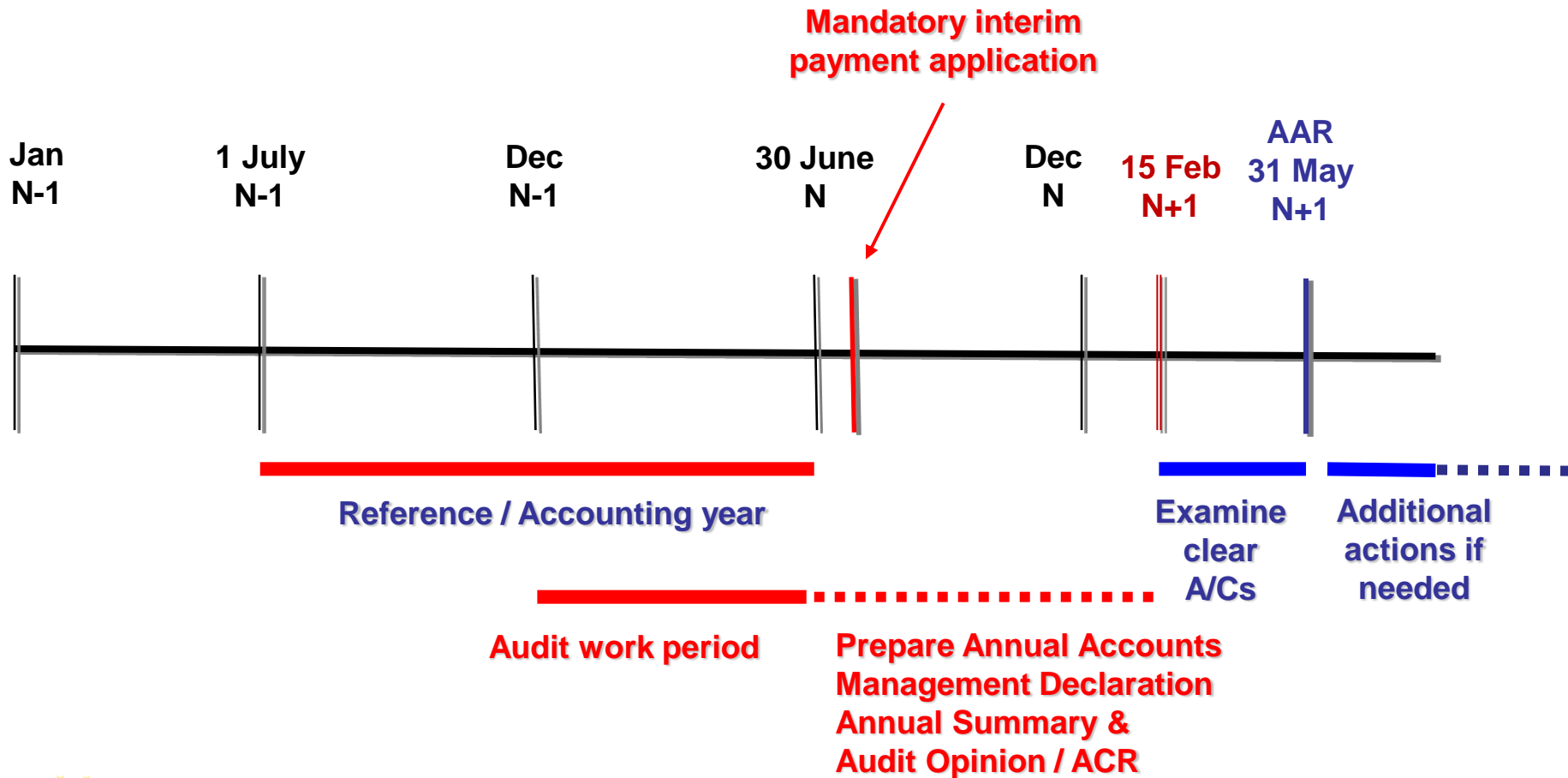
Main changes from 2007-2013

- Preparation of accounts
- New accounting year to align the assurance process
- a block of expenditure validated in the year;
- Payment applications cumulative over accounting year with a mandatory application for interim payment by 31 July; condition for introducing new interim payment applications for the subsequent accounting year;
- 1st interim payment application not before notification of designation (Art.135 CPR);
- Subsequent interim payments - unless annual implementation report not submitted.

2007-13: Timing of audits / ACR



2014-20: Timing of audits / Accounts



Preparation of accounts (MS) (1)

Accounts submitted for each OP at the level of each priority axis including:

- Total eligible expenditure by beneficiaries to 30 June (in final payment claim by 31 July);
- Corresponding public expenditure incurred;
- Corresponding payments made to beneficiaries;
- Amounts withdrawn /recovered/ to be recovered, recoveries under Art.71 CPR and irrecoverable amounts;
- Pre-financing paid to FEI and advances under State aid schemes;
- Reconcile final payment claim for the accounting year, and, accounts.

Where CA excludes expenditure that is subject to an on-going assessment on legality and regularity, it may include it in a future payment application if found to be regular (Art.137 (2) CPR).

Preparation of accounts (MS) (2)

Differences between accounts and final payment application for the accounting year may result from:

- Further management checks / corrections by MA;
- Further checks by CA and precautionary withdrawals to cross check the eligibility of expenditure (Art.137(2)CPR);
- Corrections linked to audits by the AA (system audits, audits on operations, audits on the draft accounts);
- Corrections linked to EU audits.

= Any correction applied since the final payment application until the submission of the accounts (31 July - 15 Feb. N+1) – to be reconciled in the accounts.

Examination & acceptance of accounts (Commission) (1)

Submission by 15 Feb N+1 of:

- Certified accounts (CA);
- Management declaration + Annual Summary of controls (MA);
- Annual Control Report with Audit Opinion on Accounts (AA)
 - true, fair, complete,
 - the proper functioning of systems
 - legality & regularity of expenditure,
 - consistency with the management declaration.

Examination & acceptance of accounts (Commission) (2)

Examination and acceptance of account:

- an accounting process
- not covering legality and regularity of underlying transactions;
- EC assessment on the accounts and the related audit opinion.

Legality and regularity is assessed on the basis of remaining documents:

- Management Declaration,
- Annual Summary,
- Annual Control Report
- Audit Opinion.

Examination and acceptance of accounts (3)

- Acceptance based on an unqualified audit opinion on the accounts
- Unless EC has evidence of the unreliability of the AA opinion (Art.139(2)CPR)
- By 31 May N+1 Commission informs MS whether or not accounts accepted.
- In case of acceptance (accounts are complete, accurate and true):
 - Calculation of amounts chargeable to the Fund for the accounting year
 - Balance to be paid in 30 days or deducted through recovery order offset in next interim payment (no net correction)
 - Without prejudice to possible subsequent financial correction decisions

Examination and acceptance of accounts (4)

In case of non-acceptance of the accounts:

- Commission determines the amount chargeable to the Fund & informs MS;
- If MS agrees within 2 months, accounts are accepted & balance is paid/recovered;
- If no agreement, Commission adopts a decision setting out the amount chargeable
- This is not a financial correction decision reducing contribution from the Fund (balance is paid/recovered);
- Acceptance or Commission decision is without prejudice to the application of financial corrections by the Commission under Art.144-145 CPR.

Determination of serious deficiencies

- Determination of serious deficiency
- Interruption of the payment deadline
- Suspension of payments
- Financial corrections
 - by the Member States
 - by the Commission
- Net corrections

Determination of serious deficiency

"Serious deficiency in the effective functioning of management and control systems"

Legal definition Article 2(39) CPR:

- *"deficiency for which substantial improvements in the system are required, which exposes the Funds and the EMFF to a significant risk of irregularities, and the existence of which is incompatible with an unqualified audit opinion on the functioning of the management and control system".*
- "Irregularity" and "systemic irregularity" also defined - Article 2 (36) and (38) CPR.
- Regulation (EU) No 480/2014: **criteria** for determining whether there are serious deficiencies.

Interruptions

Under Art.83 CPR:

Payment deadline for interim payment claim may be interrupted for a max. of 6 months where:

- a) Information from a national or EU audit body - clear evidence suggesting a significant deficiency in the functioning of the management and control system.
- b) The Commission has to carry out additional verifications following information alerting that expenditure in a request for payment is linked to an irregularity having serious financial consequences
- c) There is a failure to submit one of the documents required under Article 59(5) of the Financial Regulation (i.e. accounts, management declaration, annual summary, audit opinion, ACR) **(New)**

Note: MS may agree to an extension of the interruption period for another 3 months (New)

Suspensions (1)

Under Article 142 CPR)

- *The Commission may suspend all or part of the interim payments*
- *at the level of priorities or operational programmes*
- *if one or more of the following conditions are met:*
 - Serious deficiency in the MCS of the OP and corrective measures not taken
 - Serious irregularity in the statement of expenditure which has not been corrected
 - MS fails to remedy the situation leading to interruption under Art.83 CPR

Suspensions (2)

New:

- Serious deficiency in the quality and reliability of the monitoring system or of the data on common and specific indicators
- Failure to complete actions for ex-ante conditionality
- Performance review shows failure to achieve priority milestone (indicators)
- Measures linked to sound economic governance (Art.23(6)CPR), where a MS fails to take effective action on foot of request by Commission to review & amend the Partnership Agreement

Audit responsibilities - Member States & Commission

Background

- **Legal framework**
 - Regulation (EU) No 1303/2013;
 - Commission implementing acts set out models for audit strategy, annual control reports (draft), Guidance notes (drafts)
 - Regulation (EU) No 480/2014 sets out criteria for serious deficiencies and for financial corrections
- **Experience**
 - Assessment of ACR 2007-2013, best practice;
 - MS audit strategies 2007-2013, best practice;
 - New sampling guide 2013, IAS.

Audit work by Member States (1.Designation)

Designation process: role of independent audit bodies (IAB):

- MS designation of authorities shall be based on an audit report/audit opinion;
- Assess compliance with designation criteria set out in CPR;
- Audit opinion and report.

Audit work by Member States (2. Strategy)

- Prepare audit strategy within 8 months of approval of programmes;
- Plan audits for the current accounting year and for the two subsequent accounting years;
- Audit Strategy to be submitted to EC upon request;
- Annual update of audit strategy from 2016 to 2024;
- Respect the audit strategy

Audit work by Member States (3. Strategy)

Draft guidance note on audit strategy sets out:

- Risk assessment;
- Methodology; sampling incl. arrangements for non-statistical sampling, proportional controls;
- Systems audits incl. thematic audits;
- Audits of the accounts;
- Planning & Resources;
- Reporting.

Audit work by Member States (3.Audits)

Audit authorities are required to:

- Select sampling for reference period (1 July, n-1-30th June n+1) and carry out audits on operations;
- Carry out system audits;
- Carry out audits of accounts certified by CA;
- Combine results of audits on systems and on operations to determine the level of assurance and report annually to the EC

Audit work by Member States (4. Audits)

Timing and organisation:

12+ Months (1/1/N until 15/2/N+1) audit of operations should start immediately

- Consider sampling techniques to reduce workload and spread over time
 - stratification,
 - grouping,
 - confidence levels,
 - two semester sampling
 - Note: Revised sampling guide in April 2013;
- Consider potential impact of techniques chosen (e.g. grouping)

Audit work by Member States (5. Accounts)

On the accounts:

- Completeness, accuracy and veracity of the accounts
 - AA analyses the results from systems audits related to accounts & debtor's ledger;
 - AA examines the audit trail when auditing the sample of operations to verify reliability of the accounting systems;
 - AA performs desk review of an appropriate sample of underlying registered data.
- CA can adjust the accounts, if necessary, before submission to Commission

Audit work by Member States (5. Accounts)

- New reference period, accounting year 1 July – 30 June,
- Report to be done by 15 February, first ACR in 2016
- Audit opinion on:
 - functioning of systems,
 - legality and regularity of expenditure
 - accounts
- New features include management declarations, anti-fraud measures, indicators

Fraud risk assessment & anti-fraud measures **(new)**

- **Managing Authorities must:**
- put in place a minimum set of effective and proportionate anti-fraud measures
- carry out a fraud risk assessment
- **Audit authority must:**
 - verify that the MA's fraud risk assessment is credible
 - provides a true and fair assessment of the risks and
 - verify that adequate anti-fraud measures in place to mitigate risks

Risk scoring tool: ARACHNE

ARACHNE aims to provide MS authorities with tool to identify their most risky projects.

Objectives :

- Support the management and control system,
- to lower the error rate and
- strengthen fraud prevention and detection
- Facilitate continuous monitoring of internal & external data on
 - projects,
 - beneficiaries and
 - contracts/contractors

How?

- Based on a set of risk indicators and alerts
- Customized to the nature of OP expenditures
- Using some key (internal) data on projects enriched with publicly available information (external)

Financial corrections

Common Provisions Regulation (EC) No 1303/2013

- Art.143: Financial corrections by the Member State
- Art.144-147: Financial corrections by the Commission

Regulation (EU) No 480/2014

- Criteria for financial corrections linked to the Performance Framework
- Criteria for determining whether there are serious deficiencies in the functioning of management and control systems
- Criteria for applying flat rates or extrapolated financial corrections and criteria for determining the level of financial correction

Financial corrections – Member State

(A143 of CPR)

Member State (in first place):

- Responsible for investigating irregularities
- Making financial corrections
- Pursuing recoveries
- If systemic, extend investigation to all potential operations affected

- Apply a proportionate correction based on nature and gravity of irregularities
- Recorded by MA in accounts for financial year of cancellation
- Contribution cancelled may not be re-used
 - for operation subject to correction
 - Operation affected by systemic irregularity

Financial corrections – Commission (A144 of CPR)

Commission (after carrying out examination) concludes:

- Serious deficiency in effective functioning of MCS of OP
- Has put at risk, Union contribution already paid to OP
- MS has failed to correct under A143 of CPR (*previous slide*)
- Expenditure in a payment application is irregular and not corrected by MS.

- Correction based on:
 - Individual cases and/or consideration of whether it is systemic
 - If not possible to quantify precisely – apply extrapolated or flat-rate corrections
- Respect proportionality (like MS) – based on nature and gravity of irregularities or financial implications of deficiency in MCS
- Failure to achieve targets in Performance Framework
- Cancel all/part of Structural Fund contribution to MS (net correction!)

Irregularities

Definition (Art 2 (36) CPR):

- *Any breach of Union law or national law relating to its application*
- *resulting from an act or omission by an economic operator,*
- *involved in the implementation of the ESI Funds,*
- *which has or would have,*
- *the effect of prejudicing the budget of the Union*
- *by charging an unjustified item of expenditure to the budget of the Union*

- Most financial irregularities due to formal or administrative error, not fraud.

- 1999 - European Anti Fraud Office (OLAF) and a CION Internal Audit Unit

- All Irregularities > €10,000 (EU contribution) must be reported to OLAF.

Financial corrections

Types of correction:

- Specifically quantified corrections
Quantifiable error for individual or several operations – exact amount (ineligible invoice)
- Extrapolated corrections
error recurs in other operations of same type / measure / organisation etc.
- Flat rate corrections
individual breaches or systemic failures that are not quantifiable (procurement, publicity etc.)

In practice, it is preferable that MS applies corrections where detected.

Flat rate corrections

Scales of flat rate correction:

- **100%**
Serious deficiency(ies) in MCS so fundamental, frequent or widespread = Complete failure of system => puts at risk, legality and regularity of all expenditure concerned.
- **25%**
Serious deficiency(ies) in MCS so frequent and widespread = extremely serious failure of system => puts at risk, legality and regularity of a very high proportion of expenditure.
- **10%**
Serious deficiency(ies) in MCS due to system not fully functioning or functioning so poorly/infrequently => puts at risk, legality and regularity of high proportion of expenditure concerned.
- **5%**
Serious deficiency(ies) in MCS due to system not functioning consistently => puts at risk significant proportion of expenditure concerned.

NOTE: *New Guidance note on FC's being prepared by Commission.*

Summary (1)

The audit process is a continuation of current period

Tight deadlines - need for sound planning & clear deadlines by the MS for internal validation process.

Systems audits and audits of operations:

- same approach as 2007-13,
- But now contributes to the assurance on accounts.

Annual Control Report: same as 2007-13 with more information requested on:

- detailed results from audits of operations
- financial corrections resulting from audit work.

Summary (2)

The **Audit Opinion** will provide reasonable assurance that:

- accounts give a true and fair view,
- expenditure for which reimbursement requested from Commission is **legal and regular**,
- the management and control systems put in place **function properly**.
- statement on whether the audit work carried out puts in doubt the assertions made in the management declaration.

QUESTIONS?

