

HIGH LEVEL GROUP REFLECTING ON FUTURE COHESION POLICY

MEETING NO. 6 - 23RD AND 24TH SEPTEMBER 2010

VENUE: EUROPEAN COMMISSION, LORD JENKINS ROOM

DISCUSSION DOCUMENT: MANAGEMENT STRUCTURES

This document has been prepared by DG Regional Policy as the basis for a discussion with experts as part of a general reflection process on the future of cohesion policy. It does not prejudge in any way the final position of DG Regional Policy or the Commission on these questions.

1. INTRODUCTION

The Commission proposal for the amendment of the Financial Regulation sets out common principles for delivery systems of policies implemented under shared management. In particular the proposal foresees the accreditation of one or more "accredited bodies" which would assume sole responsibility for the proper management and control of EU funds. In the June 2010 meeting of the High Level Group a number of experts indicated the need for a more detailed understanding of the possible implications of these proposals for ERDF and the Cohesion Fund.

2. FINANCIAL REGULATION

The Commission proposal for the review of the Financial Regulation currently foresees the following text for paragraphs 3-6 of the article 53a of the regulation.

3. In accordance with the sector-specific rules, Member States shall accredit one or more public sector bodies which shall be solely responsible for the proper management and control of the funds, for which accreditation has been granted. This shall be without prejudice to the possibility for these bodies to carry out tasks not related to the management of Union funds or to entrust certain of their tasks to other bodies.

The accreditation shall be given by a Member State authority in accordance with sector specific rules ensuring that the body is capable of properly managing the funds. The sector specific rules may also define a role of the Commission in the accreditation process.

The accrediting authority shall be responsible for supervising the body and for taking all necessary measures to remedy any deficiency in its operation, including the suspension and withdrawal of the accreditation.

4. Bodies accredited pursuant to paragraph 3 of this Article shall:

- (a) set up and ensure the functioning of an effective and efficient internal control system;*
- (b) use an annual accounting system providing accurate, complete and reliable information in a timely manner;*

- (c) *be subject to an independent external audit, performed in accordance with internationally accepted auditing standards by an audit service functionally independent of the accredited body;*
- (d) *ensure, in conformity with Article 30(3), annual ex post publication of recipients of Union funds;*
- (f) *ensure a protection of personal data which satisfies the principles laid down in Directive 95/46/EC.*

5. *Bodies accredited pursuant to paragraph 3 of this Article shall provide the Commission by 1 February of the following financial year with:*

- (a) *their accounts drawn up for the expenditure made in the execution of the tasks entrusted;*
- (b) *a summary of the results of all available audits and controls carried out, including an analysis of systematic or recurrent weaknesses as well as corrective actions taken or planned;*
- (c) *a management declaration of assurance as to the completeness, accuracy and veracity of the accounts, the proper functioning of the internal control systems as well as to the legality and regularity of the underlying transactions and the respect of the principle of sound financial management;*
- (d) *the opinion of an independent audit body on the management declaration of assurance mentioned in point (c) of this paragraph, covering all its elements.*

If a Member State has accredited more than one body per policy area, it shall by 15 February of the following financial year provide the Commission with a synthesis report consisting of an overview at national level of all management declarations of assurance and the independent audit opinions thereon, prepared for the policy area concerned.

6. *The Commission shall:*

- (a) *apply procedures for a timely financial clearance of the accounts of the accredited bodies, ensuring that the accounts are complete, accurate and true and allowing for a timely clearance of irregularity cases;*
- (b) *exclude from Union financing expenditure the disbursements which have been made in breach of Union law.*

Thus under this proposal there would be two distinct entities – an accrediting authority and an accredited body, plus an independent audit body (audit authority). The accredited body would assume full responsibility for management of EU funds, the accrediting authority would be responsible for the initial accreditation process, supervision over the accredited body(ies) and the suspension/withdrawal of accreditation upon need.

The proposal does not limit the number of accredited bodies; therefore each Member State can accredit several bodies (though no more than one per operational programme). The proposal also states clearly that delegation of tasks by accredited bodies will continue

to be possible; however the overall responsibility for management will remain with the accredited body.

3. ACCREDITATION PROCESS AND CRITERIA

The accreditation process will have a similar objective to the compliance assessment of 2007-2013, namely to provide assurance ex ante on the set up and design of the main systems of management and control.

Before the start of the accreditation process, the Member State must decide on the accrediting authority. The accrediting authority should have an appropriate level of political responsibility for the implementation of EU funds. Taking into account the general objective of reducing and limiting the complexity of management and control structures, the number of accrediting bodies should ideally be limited to one per Member State, or at least one per region.

The accrediting authority should carry out two functions:

- Accrediting the body responsible for the management and control of EU funds (ex-ante supervision), on the basis of an independent examination of compliance of the body with the accreditation criteria.
- Exercising general supervision over the accredited body, suspending or withdrawing the accreditation where there are deficiencies, which mean that the accreditation criteria are no longer fulfilled. The accrediting authority would not be expected to perform controls on its own - it could rely fully on the work of other authorities, in particular the audit authority. For this purpose, the accrediting authority should maintain a regular overview of the main results of audits and other controls.

While the accrediting authority should rely mainly on the work audit authority, it should possess:

- a) competence in the area of management of funds;
- b) formal and political authority to make decisions on accreditation as well as decisions on suspension or withdrawal of accreditation.

The jurisdiction and authority of different bodies varies across Member States, but entities such as the Ministry of Finance or the national office of Government (or regional government in the case federal countries) may possess the competences as well as the political authority required.

Accreditation criteria would be laid down at the EU level and could include criteria relating to:

- **Organisational environment**, including a clear allocation of all tasks, adequate segregation of functions, measures to avoid conflicts of interest; procedures for risk assessment.
- **Delegation of tasks**, including the presence of formal (written) arrangements for such delegation to define obligations and duties relating to the delegated functions and a regular review of performance as well as supervision by the accredited body.

- **Control functions**, including the adequate organisation of first level controls.
- **Existence of reliable accounting, monitoring and financial reporting systems** in a computerised form; arrangements for keeping an account of amounts recoverable and for recovery of undue payments.
- **Adequate audit trail**: the retention of all documents related to financial transactions until the regulatory deadline.
- **Follow up on control findings**: reporting of irregularities and necessary preventive and corrective actions in case of systemic errors detected by the audit authority.
- **Administrative capacity**: training/guidance system to ensure awareness of newly recruited staff of rules and procedures.

4. POSSIBLE MANAGEMENT STRUCTURES

Given that the setting up of systems for the period 2007-2013 along with the process of compliance assessment has been resource intensive, and has generally led to the establishment of reasonably solid management systems, there are good reasons for avoiding major overhauls.

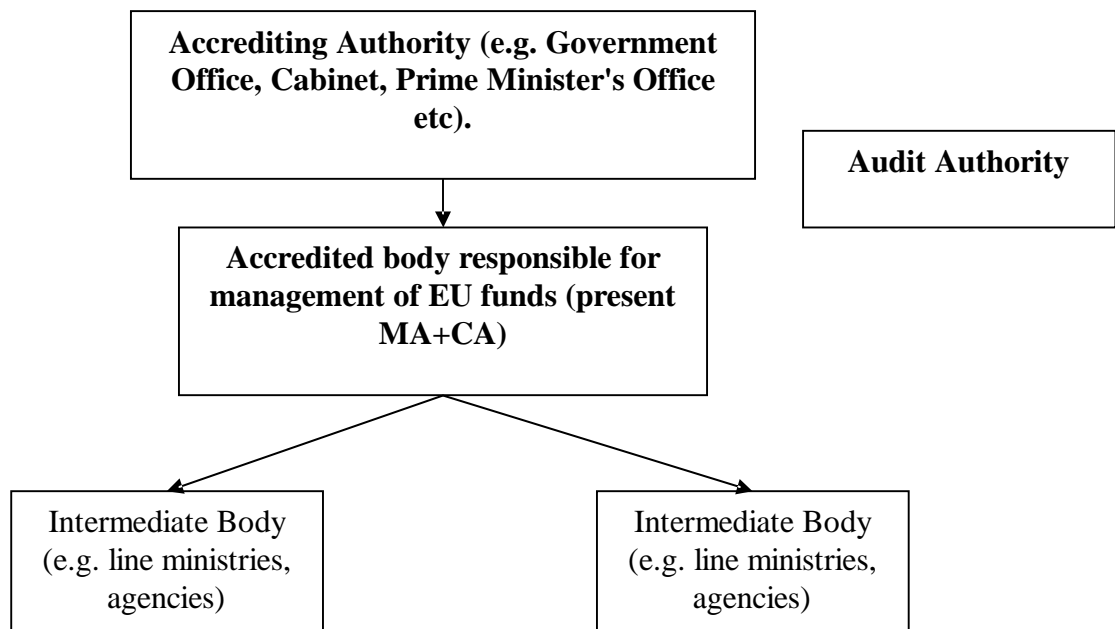
The four options for the setup of management structures indicate ways to incorporate expertise acquired by the certifying authorities in the management structures of the period post-2013 and to retain the competence attained by present managing authorities.

The options described below are examples of possible adaptations and do not preclude systems organised in a different manner.

OPTION 1: Merger of the managing authority and the certifying authority to form an "accredited body"

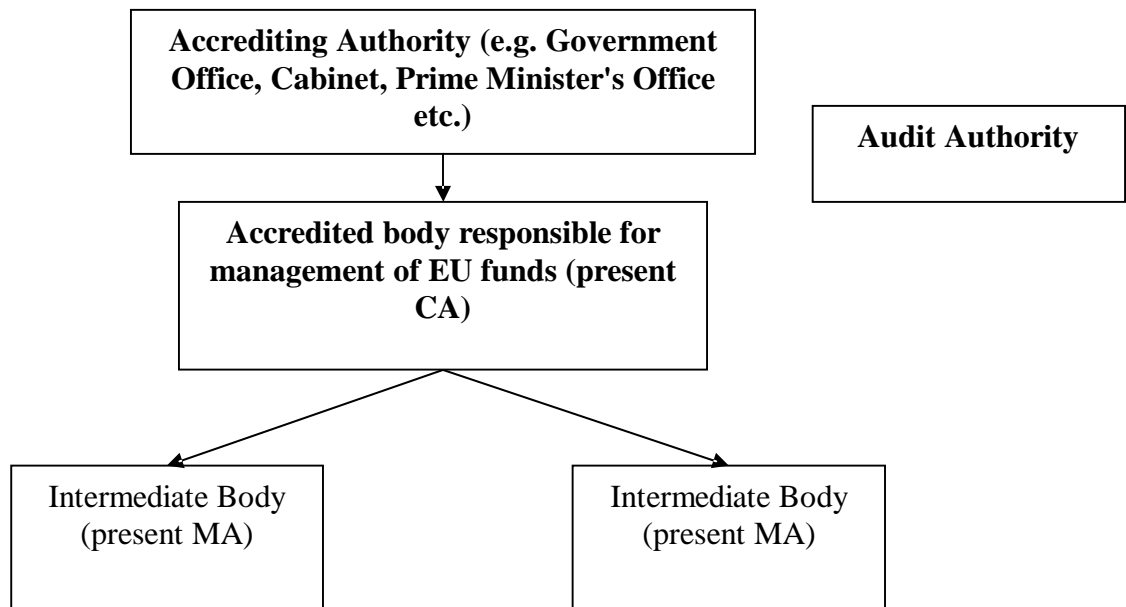
In centralised management systems, in particular in systems where the managing authority and certifying authority are currently located in separate departments within the same institution, there is an option of merging the managing authority and the certifying authority into one "accredited body" incorporating all existing expertise from both authorities.

In some Member States this arrangement can be further complemented by the delegation of functions to intermediate bodies by the accredited body.



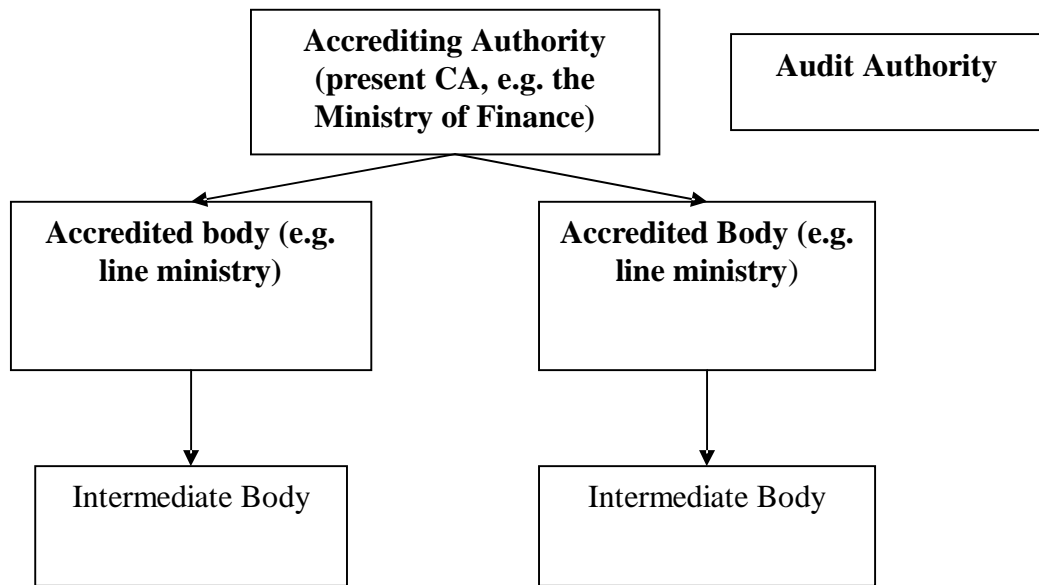
OPTION 2: Re-establishment of the certifying authority as the "accredited body"

In management and control systems where there is currently one centralised certifying authority of substantial competence and several managing authorities, the Member State may choose to re-establish the current certifying body as the accredited body responsible for the management of funds. This would leave the present managing authorities in the position of intermediate bodies fulfilling tasks delegated by the accredited body.



OPTION 3: The re-establishment of the current certifying authority as the "accrediting authority"

In delivery systems where the expertise and the role of the certifying authority is currently substantial and it is not possible to merge this expertise with that of the managing authority, the current certifying authority (often the Ministry of Finance, responsible for the sound management of public funds in general) can assume the role of the accrediting authority, exercising a supervisory role over accredited bodies (potentially the current managing authorities).



OPTION 4: Integration of the certifying authority into the audit authority

Where the certifying authority and the audit authority are currently centralised and constitute different departments of the same institution there may be potential to integrate the present certifying authority into the audit authority, as both of these authorities have control functions and staff which may have similar competencies. This option may reinforce the capacity of audit authorities in respect to the audit of the annual accounts. The most likely accredited bodies in this scenario are the present managing authorities.

Discussion points

- Which authorities would be the most appropriate to fulfil the role of the accrediting authority? Is it possible to limit the number of accrediting authorities per Member State/Region?
- Can the shift to management structures described by the Financial Regulation take place without major modifications in the functions of existing authorities?