



The Brexit Adjustment Reserve

Technical meeting with BAR audit bodies

14 September 2023

Agenda - BAR Technical Meeting (14 September 2023)

9:30 Opening of the meeting (*C. de Buggenoms, DAC 5*)

9:45 **EC BAR presentation followed by a Q&A session**

- Key features, state of play and implementation challenges (*S. Appel , REGIO E1*)
- Audit expectations for the IAB (*B. Stanciu, DAC 5*)
- First lessons learnt and some key BAR audit risks (*M. Kovacs and J. Millet, DAC 5*)

11:00 Break

11:15 **IAB NL presentation:**

"BAR audit work on system and operation in practice" (*M. de Witte, IAB NL*)

followed by open discussions

and sharing of experience between participants

12:30 Conclusions



BAR Regulatory Framework

Key features

Stefan Appel
Head of Unit REGIO E1
European Commission

The Brexit Adjustment Reserve – Key features (1/2)

The Brexit Adjustment Reserve (BAR) is a **temporary instrument**:

- to provide **swift support** to Member States
- to react **flexibly** to the specific situations within Member States with **least administrative burden**
- no **advance programming or planning of measures**
- established with the exclusive objective to mitigate the economic impact of the UK's withdrawal and support **especially** those regions and sectors **most affected** in these circumstances

The Brexit Adjustment Reserve – Key features (2/2)

To be eligible for the BAR support, each Member State need to prove:

- the **adverse consequences** of Brexit
- **direct link** between the measures carried out and negative consequences of Brexit
- fulfil the **eligibility criteria** set out by the Regulation

BAR implementation flow chart

First allocation in the form of pre-financing

Commission pays the amounts upon notification by the Member States of the designated bodies' identity and confirmation that the MCS has been drawn up

2025 - Final payment by EC

The Commission decides on final amount accepted and decides on clearance of pre-financing, recoveries and additional amounts

2021

2023

2024

2025

1 January 2020 – 31 December 2023
Reference Period

Member States set up support measures, pay expenditure, monitor implementation and perform controls

By 30 September 2024

MS final applications, Implementation reports and audit opinion

Single deadline for MS that have received pre-financing to send detailed **final application and implementation report** detailing the measures taken **and providing assurance** regarding the legality and regularity of expenditure

Assessment by the Commission



State of play, Implementation challenges and next steps

Stefan Appel
Head of Unit REGIO E1
European Commission

The Brexit Adjustment Reserve – Key domains

Key domains for which Member States consider support from the BAR:

- fisheries sector and coastal communities
- private and public businesses, in particular SMEs (inter alia advisory support), export sectors and trade promotion, tourism sector (as a controversial example)
- customs and border controls/ports (installations and construction/rental of buildings to accommodate the additional related inspection services (customs/veterinary/phytosanitary),
- job creation and protection, re-skilling and training

The Brexit Adjustment Reserve – State of play

- **Shared management mode** - there is no regulatory obligation for MS to report on the state of the BAR implementation (such as type of beneficiaries, concrete examples of envisaged measures etc.) by September 2024
- **Pre-financing phase** - Member States received their pre-financing instalment upon the complete notification to the Commission and design and implement their measures under their own responsibility
- By September 2023, **24 Member States (in total) had notified the Commission** and received their 2021 and 2022 and 2023 instalment(s) of the pre-financing which stands for 98.5% of the total provisional allocation.
- **Continuous dialogue with Member States** on specific measures to be set up

The Brexit Adjustment Reserve

– Implementation challenges

Recurrent concerns raised by the biggest BAR beneficiaries:

- **Direct link with Brexit** (difficulty to prove/distinguish from COVID or Ukraine crisis impact)
- **Limited eligibility period:**
 - The size of the BAR transfer to RRF [REPowerEU] amounted to **EUR 2.1 billion** which stands for **38% of the total provisional BAR allocation**; [10/23MS transferred the total provisional BAR allocation]; the remaining total BAR allocation equals **EUR 3.4 billion**
 - Notwithstanding the different payment levels, **the measure has to be carried out by 30 September 2024 and all the controls and audits foreseen by the Regulation to be finalized by then**
- **State aid related questions** on compensating the negative effects of Brexit on companies – difficulties linked to retroactivity/proving the incentive effect
- **Reference period with retroactivity:** it is possible to cover measures carried over before the reference period (Jan2020-Dec2023) but incurred and paid during the reference period by authorities in MS, at national/regional/local level

The Brexit Adjustment Reserve – Next steps

- **By June 2024**, the Commission shall inform the European Parliament and the Council on the state of play of the implementation process of this Regulation, based on available information
- **By 30 September 2024**, each MS shall submit an application to the Commission for a financial contribution from the Reserve; a single deadline for all to ensure equal treatment
- **The final balance will be paid in 2025**
- **By 30 June 2027**, the Commission shall carry out an evaluation to examine the effectiveness, efficiency, relevance, coherence and Union added value of the Reserve
- **By 30 June 2028**, the Commission shall submit to the European Parliament, to the Council, to the European Economic and Social Committee and to the Committee of the Regions a **report on the implementation of the Reserve**

MS do not have to provide any additional information for all these COM reports - COM will prepare the reports based on available information as provided by the MS



Audit Expectations for the IAB

Beatrice Stanciu
Deputy Head of Unit Audit V
Joint Audit Directorate for Cohesion
European Commission

Responsibilities of the Member State

– BAR management control systems and audit

- Designating a body responsible for the management of the financial contribution from the Reserve and **an (only one) independent audit body**
- Notifying to the Commission the bodies designated and confirming that the systems' descriptions have been drawn up, by 10 December 2021
- Setting up management and control systems - **proportionate** to the nature of the Reserve and can **use the bodies already in place** for ESIF
- Drawing up a description of the MCS and keeping it updated
- Preventing, detecting and correcting irregularities and fraud, and avoiding conflict of interest
- Cooperating with the Commission, OLAF, the Court of Auditors and the EPPO

Audit work requirements for IAB

- Audit the **BAR management and control systems**
- Audit the **legality and regularity** of the BAR financed measures



- Issue an **Audit opinion** on (Annex II of BAR Regulation):
 - The elements of the BAR accounts
 - The expenditure included in the BAR application
 - The functioning of the BAR management and control system

One Audit body designated and **one Application** for a financial contribution, including the **Audit opinion** no later than 30 September 2024

Key attention points to build BAR audit assurance

- **Audit strategy** not a BAR regulatory requirement, but important to plan the audit work in compliance with international auditing standards

Attention to be paid:

- **Link to Brexit and BAR specificities**
- Processes and procedures not adapted to BAR legal framework, including the control and reporting arrangements between the MB, implementing bodies and beneficiaries.
- **New areas of audits and/or bodies** outside the IAB's established legal framework and/or expertise
- Attention to **previously detected deficiencies** in the system
- **Delays in the implementation** of the BAR measures with impact on timing of audit work
- Limited or skewed sample not supporting the audit opinion

Assessment of BAR Management and Control Systems

Must cover the Strategic Key Requirements (Article 14.3 of BAR Regulation):

- (a) effective and efficient **internal control system**;
- (b) criteria and procedures for the **selection of measures**;
- (c) **verification of the legality and regularity for measures**
and **expenditure** based on **verifiable supporting documents**;
- (d) measures to avoid **double funding**.

Do not overlook:

- (e) ex post publication in accordance with Article 38(2) to (6) of the FR;
- (f) the **accounting system** to record and store **electronically data** on the expenditure incurred;
- (g) storage of **available supporting documents** regarding expenditure for a period of 5 years;
- (h) collect **information in an electronic standardised** format
on recipients and their beneficial owners.

Audit of the legality and regularity of BAR financed measures

- Based on a **representative sample**
(statistical unless population is less than 300 sampling units)
(Article 14 of BAR Regulation)
- Sample sufficient to enable an audit opinion
- **Provide TER + conclude on the RTER**
(Article 11 of BAR Regulation and Article 63(5), point (b), of the Financial Regulation)
- Take **adequate corrections RTER (<2%)**

Audit opinion and reporting

- 1. Template of the BAR Audit opinion** in Annex II of the BAR Regulation.
- 2. Summary of BAR final audit reports and controls** as per Article 11.3 and Art 63(5)b of the Financial Regulation
- 3. Important to provide the additional information** to enable smooth assessment process by Commission:
 - *IAB, its status and, staff experience*
 - *Other auditors used and supervision procedures*
 - *Main considerations of the audit strategy*
 - *System audits carried out, the main conclusions*
 - *Sampling methodology, reasoning for the key judgements*
 - *Reconciliation between the sample population and the declared expenditure*
 - *Results of the audits of operations; financial irregularities identified; corrections made by the managing body; Calculation sheets for TER and RTER*
 - *Treatment of systemic errors or suspected fraud*

Financial corrections

- **Financial corrections to be made by the Member States** [*Article 15.1 of BAR Regulation*], Cancelling the financial contribution and recovering any amount lost as result of irregularity detected by the MB and/or IAB
- **Financial correction by the EC** [*Article 15.2 of BAR Regulation*]
Exclusion the irregular amounts submitted to the Commission in the BAR application, and recovery of the amounts unduly paid if irregularities are subsequently identified
- Financial corrections on individual cases of identified irregularities and to take account of whether an irregularity is systemic.
- Flat rate or extrapolated financial correction can also be used for BAR, both by MS and the Commission.
- Respect of the principle of proportionality.
- Net financial corrections if no BAR overbooking audited by the IAB.

Optimization of BAR audit work

Re-use / adapt

- Previous audit work for assurance (however, do not forget necessary additional work for BAR specificities even for known bodies in the system)
- Information on existing structures and flows
- Existing guidance for the audit work (assessment of MCS; audit opinion; sampling) – for the important KRs and IB/measures
- Checklists for system audits and audits of expenditure

Advance audit work as much as possible **and use cut-off deadlines**

Use **audit expertise available in the system**, on condition to have procedures in place to rely on work of other auditors

Challenges for IAB staffing and capacity

One IAB to submit the opinion ⇔ procedures in place to rely on work of other auditors

- **Expertise** - financing diverse policy areas with specific rules and risks
- Limited **staff resources** for BAR and **retention** as one off MCS for a short period of implementation
- Ensure **minimum capacity after September 2024** to deal with the EC enquiries until the clearance of the prefinancing



First lessons learnt and some key BAR audit risks

Milan Kovacs

Team leader Audit V

Julien MILLET

Auditor

Joint Audit Directorate for Cohesion

European Commission

Key BAR audit risks identified

- a) Direct link to BREXIT**
- b) Eligibility of expenditure**
- c) Timing of the IAB audit work**
- d) Retrospective expenditure**
- e) State Aid**
- f) Double funding**
- g) Proportionate use of estimates and SCOs**

a) Direct link to Brexit

- BREXIT direct negative impact – **verification up to final recipient level**,
e.g. loss of sales / barriers to exports / systems to adapt
- Expenditures as per new challenges (procedures/ processes) as result of Brexit,
e.g. customs procedures for export/import from the UK
- Proportionate allocation of expenditure specifically related to Brexit impact
e.g. when the issue existed, only part that Brexit aggravated and additional costs
- Response to Brexit threats to worst case scenario, even when not yet materialised
- Simple replacement of the assets – not eligible


Difficulties:

- Insufficient documentation/demonstration of the negative impact, as audit trail
- Justification of the BREXIT direct link is subject to a professional judgement.
- Differentiating BREXIT impact from the other crises: delayed BREXIT process, COVID and Ukraine crises



b) Eligibility of expenditure

- Compliance with Article 5(2) of the BAR Regulation needs to be ensured:
“*The expenditure must be incurred and **paid by public authorities by 31 December 2023, while** Member State needs to report **by 30 September 2024** (see Article 10 of same Regulation) about the **measures carried out** in line with Article 11 and Annex II.*”
- Conditions of eligibility: **Paid and incurred by 31 December 2023 by public body** (not by final beneficiary) **AND** measures carried out by 30 September 2024 by the recipient of the financial contribution



Need to organize internally so that the controls and audits foreseen by the Regulation are carried out to allow for the submission of the application including the audit opinion by 30 September 2024

c) Timing of the IAB audit work

- Reference period:

1 January 2020 – 31 December 2023

Application by:

30 September 2024



- Retroactive eligibility period
- Short implementation period for MB and its challenges
- Delayed launch or/and selection of measures
 - >>> pressure on the MB controls and IAB assurance work
- Moving target for early audits but strong recommendation for intermediate visits to familiarize with the measures
- Impact of the specific legal interpretation of the eligibility of expenditure
(paid at public body level by end 2023 versus measures carried out by 30 September 2024)
on the IAB audit work

d) Retrospective expenditure

- **Contracting** procedures launched on national budget may have to comply with EU public procurement rules – use of the EC checklist
- **Audit trail** not always adequate to assess eligibility of BAR expenditure – trace back the relevant evidence
- **Electronic system** not adapted to report on data and accounting records for each BAR measure – adapt existing IT tool
- **Information, communication and visibility** - preparation for Brexit before BAR was established, activities launched from the national budget – Visibility activities should depend on the level of BAR funding of each measure or sub-measure

e) State aid

- No state aid temporary framework for BAR measures, contrary to COVID expenditure.
- If not dealt correctly, risk of financial correction.
- IAB needs to check if each BAR measure has been assessed as State Aid compliant – no state aid, *de minimis*, GBER, SGEI, notified scheme.
- For some BAR measures, notified aid assessed and decided by DG COMPETITION which sets out the specific rules to be complied with.

f) Double funding

- There is a general risk of double funding of the same costs by BAR and other EU funds such as RRF, ESF, ERDF, FEADER, EMFF, AMIF, ERASMUS...
- If BAR expenditure are declared based on unit costs, potential overlap of costs should be verified.
- If BAR measures are compensating profit loss due to Brexit, need to check whether depreciation of assets was previously financed by Union funds.

g) Proportionate use of estimates and SCOs

- Expenditure should be considered if assets will be used for Brexit related activities.

Apportionment (% of expenditure) will be needed in some cases.

E.g. equipment to control movement of people and goods is likely to be used also for people/goods not destined or originating from the UK. Only the Brexit related activities are eligible.

- Additional funding due to Brexit for activities already in place, **estimates** of the additional costs should be properly calculated and justified. E.g. customs officials are dealing with goods from various countries, not only the UK. However, there is definite increase in the customs workload due to the UK exiting the common customs area. Brexit link and proportion might be established at macro level comparing all customs clearances with UK origin customs clearances.
- Use of **SCO** are possible as long as there are a reliable proxy of real costs (off the shelf, approved and used SCO methodology under another Union fund).

More information

BAR website:

https://ec.europa.eu/regional_policy/en/funding/brexit-adjustment-reserve/

[bar_generic_examples.pdf \(europa.eu\)](#)

[BAR eligibility of expenditure.pdf \(europa.eu\)](#)

BAR functional mailbox:

REGIO-E1-BAR@ec.europa.eu



Questions & Answers