



## Explanatory Note to Decision 2015/011/R

### AMC/GM for non-complex Approved Training Organisations (ATOs)

RELATED NPA/CRD 2014-28 — RMT.0421 (FCL.014) — 15.4.2015

#### EXECUTIVE SUMMARY

This Decision addresses a new concept introduced by the Commission, in consultation with the Agency, and included in Commission Regulation (EU) 2015/445 which entered into force on 8 April 2015. The aim of this Decision is to introduce additional Acceptable Means of Compliance (AMC) and Guidance Material (GM) for the 'organisational review' concept in Part-ORA.

The AMC/GM aim to provide alleviations to non-complex ATOs in General Aviation (GA) by simplifying the existing AMC/GM on the management system. The proposal has been developed by the Agency in consultation with a dedicated task force. Said task force was established as a result of the Agency's workshop on non-complex ATOs in 2014. The objective of the AMC/GM is to provide non-complex ATOs, providing training only for the LAPL, PPL, BPL or SPL, with the means to comply with ORA.GEN.200(c) when considering to accomplish safety risk management and compliance monitoring by an organisational review. During the related NPA 2014-28 public consultation, the Agency received 216 comments. A large proportion of the comments, notably from the GA community, showed only limited support for the proposed amendments. Furthermore, the comments indicated that, with the exception of the proposals associated with the 'organisational review' concept, the remaining proposals should be discarded. Consequently, the Agency decided to only include AMC/GM related to the 'organisational review' and not to include any further amendments to the existing AMC/GM related to non-complex ATOs.

Applicability		Process map	
Affected regulations and decisions:	Commission Regulation (EU) 2015/455 ED Decision No 2012/007/R (AMC/GM to Part-ORA)	Concept Paper:	No
Affected stakeholders:	Non-complex approved training organisations (ATOs)	Terms of Reference:	9.3.2012
Driver/origin:	Legal obligation; proportionality	Rulemaking group:	No
Reference:	N/A	RIA type:	None
		Technical consultation during NPA drafting:	No
		Duration of NPA consultation:	2 months
		Review group:	No
		Focussed consultation:	Yes



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## 1. Procedural information

### 1.1. The rule development procedure

The European Aviation Safety Agency (hereinafter referred to as the 'Agency') developed this Decision in line with Regulation (EC) No 216/2008<sup>1</sup> (hereinafter referred to as the 'Basic Regulation') and the Rulemaking Procedure<sup>2</sup>.

This rulemaking activity is included in the [Agency's Rulemaking Programme](#) under RMT.0421 (FCL.014). The related [Terms of Reference](#) (ToR) were published on the Agency's website on 9 March 2012.

There was an agreement between the Commission and the Agency that the latter would organise a workshop based on the input received on the one hand by Member States and the GA community and on the other hand through the GA Road Map activities having identified a need to address certain additional problems/issues related to non-complex ATOs, specifically ATOs providing training for the Light Aircraft Pilot Licence (LAPL), Private Pilot Licence (PPL), Balloon Pilot Licence (BPL) and Sailplane Pilot Licence (SPL). This workshop ('Registered Facility/ATO Workshop') was held on 15–16 May 2014 at the Agency's premises in Cologne, Germany.

The aim of the workshop was further defined<sup>3</sup> by the Commission which requested the Agency to:

- review the current situation of non-complex ATOs;
- identify the constraints and problems experienced;
- develop options of how to address these issues in a coordinated manner before the end of the given opt-out period; and
- identify long-term strategies or options.

During the workshop, proposals for items to be discussed in subgroups were collected.

In parallel, the Commission, in consultation with the Agency, also adopted Regulation (EU) 2015/445<sup>3</sup> which includes significant changes for non-complex ATOs providing training only for the LAPL, PPL, SPL and BPL as well as for the associated ratings or certificates. Hence, the related proposals for additional AMC and GM related to the amended requirement ORA.GEN.200(c) are included in this Decision. Said AMC and GM will introduce the means to comply with the provisions to perform an organisational review.

Moreover, the Agency, the Commission and the Member States also agreed that Regulation (EU) 2015/445 will allow Member States to further delay the implementation of the rules for ATOs that provide training only for the LAPL, PPL, SPL and BPL as well as for the associated ratings or certificates, until April 2018. This derogation was proposed in order to provide the time to develop alternative rules

<sup>1</sup> Regulation (EC) No 216/2008 of the European Parliament and of the Council of 20 February 2008 on common rules in the field of civil aviation and establishing a European Aviation Safety Agency, and repealing Council Directive 91/670/EEC, Regulation (EC) No 1592/2002 and Directive 2004/36/EC (OJ L 79, 19.3.2008, p. 1).

<sup>2</sup> The Agency is bound to follow a structured rulemaking process as required by Article 52(1) of the Basic Regulation. Such process has been adopted by the Agency's Management Board and is referred to as the 'Rulemaking Procedure'. See Management Board Decision concerning the procedure to be applied by the Agency for the issuing of Opinions, Certification Specifications and Guidance Material (Rulemaking Procedure), EASA MB Decision No 01-2012 of 13 March 2012.

<sup>3</sup> Commission Regulation (EU) 2015/445 of 17 March 2015 amending Regulation (EU) No 1178/2011 as regards technical requirements and administrative procedures related to civil aviation aircrew (OJ L 74, 18.3.2015, p. 1).



for the training for these licences, ratings and certificates which will include a training route outside ATOs. An additional initiative and a rulemaking task will be launched soon.

NPA 2014-28 was submitted for consultation of all interested parties<sup>4</sup>. The Agency carefully assessed all the comments received. The comments received and the Agency's responses thereto are presented in Comment-Response Document (CRD) 2014-28<sup>5</sup>. A large proportion of the comments, notably from the GA community, showed only limited support for the proposed amendments. Furthermore, the comments indicated that, with the exception of the proposals associated with the 'organisational review' concept, the remaining proposals should be discarded. Consequently, the Agency decided to only include AMC/GM related to the 'organisational review' concept and not to include any further amendments to the existing AMC/GM related to non-complex ATOs providing training only for LAPL, PPL, SPL, BPL and associated ratings or certificates.

The draft text of this Decision has been developed by the Agency in close cooperation with the dedicated task force consisting of GA organisations and Member States representatives, and by taking into account the comments received from interested parties on NPA 2014-28.

## 1.2. Structure of the related documents

Chapter 1 contains the procedural information related to this task. Chapter 2 explains the core technical content with an overview of the issues to be addressed, the objectives, the outcome of the consultation and the overview of the amendments. Chapter 3 contains the references to the affected Decision. The text of the AMC/GM is annexed to the ED Decision.

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<sup>4</sup> In accordance with Article 52 of the Basic Regulation and Articles 5(3) and 6 of the Rulemaking Procedure.

<sup>5</sup> <http://www.easa.europa.eu/document-library/comment-response-documents>



## 2. Explanatory Note

### 2.1. Overview of the issues to be addressed

Subpart GEN of Part-ORA (hereinafter referred to as 'Subpart ORA.GEN') establishes the general requirements for training organisations. Section II of Subpart GEN defines requirements for the management system, which shall correspond to the size of the organisation and to the nature and complexity of its activities, taking into account the hazards and associated risks inherent in these activities.

Criteria for determining if an organisation is complex are already provided in AMC1 ORA.GEN.200(b). It should be highlighted that ATOs providing only training for the LAPL, PPL, SPL or BPL, as well as for the associated ratings or certificates, are by default considered to be non-complex organisations. Subpart ATO of Part-ORA (hereinafter referred to as 'Subpart ORA.ATO') complements the general requirements with specific provisions for organisations providing training for pilot licences as well as for the associated ratings and certificates. Section I of Subpart ORA.ATO contains provisions for the issue of a certificate as an ATO, the personnel requirements for an ATO, the training programme, the training and operations manual, the aircraft and aerodromes to be used for training, and some additional requirements for training provided in third countries. Section II establishes the additional provisions for ATOs providing training for commercial pilot licences. It defines additional requirements with regard to the personnel and the training programme and describes in more detail the additional requirements for the training and operations manual. Several AMCs already illustrate how to comply with the rule in the case of ATOs providing training only for the LAPL, PPL, SPL or BPL, as well as for the associated ratings and certificates.

The main purpose of NPA 2014-28 was to provide further alleviations for non-complex ATOs by providing more detailed information and guidance. In order for this to be achieved, the amendment of ED Decision 2012/007/R 'Acceptable Means of Compliance and Guidance Material to Part-ORA' was proposed. Based on the assessment of NPA comments (refer to 2.3), the Agency decided to only include the proposed AMC and GM to ORA.GEN.200(c) regarding the 'organisational review'.

Through Regulation (EU) 2015/445, the Commission, in consultation with the Agency, introduced in Part-ORA of Regulation (EU) No 1178/2011<sup>6</sup> the concept of 'organisational review'. This review may be used by ATOs, only providing training for the LAPL, PPL, SPL or BPL as well as for the associated ratings or certificates, to meet the requirements for the safety risk management and compliance monitoring defined in ORA.GEN.200(a)(3) and (a)(6). This Decision provides the respective AMC and GM to this new requirement ORA.GEN.200(c).

### 2.2. Objectives

The overall objectives of the EASA system are defined in Article 2 of the Basic Regulation. This proposal will contribute to the achievement of the overall objectives by addressing the issues outlined in Chapter 2 of this NPA.

<sup>6</sup> Commission Regulation (EU) No 1178/2011 of 3 November 2011 laying down technical requirements and administrative procedures related to civil aviation aircrew pursuant to Regulation (EC) No 216/2008 of the European Parliament and of the Council (OJ L 311, 25.11.2011, p. 1).



The specific objective of this proposal as defined in the Terms of Reference for RMT.0421 (FCL.014) and NPA 2014-28 is to:

- review and eventually amend the AMC/GM to Part-ORA (organisation requirements for aircrew);
- consider developing new AMC/GM for Subparts ORA.GEN and ORA.ATO on how to comply with the rule in the case of non-complex ATOs; and
- develop new ‘proportionate’ AMC/GM for those non-complex ATOs.

### 2.3. Outcome of the consultation

The Agency carefully assessed all the comments received. A large proportion of the comments, notably from the GA community, showed only limited support for the proposed amendments. Furthermore, the comments indicated that, with the exception of the proposals associated with the ‘organisational review’ concept, the remaining proposals should be discarded. It should be highlighted that these proposals had been developed by the Agency in close cooperation with a dedicated task force consisting of GA organisations and Member States representatives. Their aim was to develop AMC/GM to provide further support to non-complex ATOs. The Agency believes that the limited support was to a certain extent the result of biased assumptions (i.e. that the AMC/GM for the organisational review would apply in addition to the existing AMC/GM for ORA.GEN.200(a)(3) and (a)(6)); as a matter of fact, it replaces them. Furthermore, the limited support may also be due to higher stakeholder expectations with regard to the extent of the alleviations for the respective ATOs through this task (i.e. stakeholders were already expecting the introduction of the ‘training outside ATO’ concept).

In this context, the Agency highlights that the Commission, the Member States and the Agency agreed, as already reflected in Regulation (EU) 2015/445, to allow Member States to further delay the implementation of the rules for ATOs that provide only training for the LAPL, PPL, SPL and BPL as well as for the associated ratings or certificates until April 2018. This derogation was proposed in order to provide sufficient time for the development of alternative rules for the training for these licences, ratings and certificates. Said alternative rules will include a training route outside ATOs. The aforementioned derogation in Regulation (EU) 2015/445 and a soon to be launched rulemaking task on training outside ATOs are expected to bring further alleviations for GA pilot training.

Consequently, based on the reasoning above, the Agency decided to only include the proposed AMC/GM for the ‘organisational review’ in its Decision. This new concept is already included in Regulation (EU) 2015/445 which entered into force on 8 April 2015. No further amendments to the existing AMC/GM for non-complex ATOs are anticipated at this stage.

### 2.4. Overview of the amendments

As explained under 2.3, the Agency decided to include only the proposed AMC/GM for the ‘organisational review’. Out of 216 unique comments on this NPA (252 in total), there were only 10 comments on the segment for AMC1 ORA.GEN.200(c) and 14 comments to GM1 and GM2 ORA.GEN.200(c).

#### *AMC1 ORA.GEN.200(c) Management system*

There were several commentators suggesting that the proposed draft AMC was too detailed. One commentator suggested that points (b) to (f) of AMC1 ORA.GEN.200(c) be made more pragmatic by



taking into account the size and scope of activities of the training originations and proposed an alternative draft text. The Agency carefully assessed the proposal and agreed to amend the text accordingly.

*GM1 and GM2 to ORA.GEN.200(c) Management system*

One commentator also indicated that the respective GM1 and GM2 did not meet the objective of simplification. As already explained in the Explanatory Note of NPA 2014-28, the requested detailed and focussed guidance means more explanation on the rule text and AMC. It should be noted that GM is not a legally binding requirement and merely serves to provide supporting guidance. The objective of both GMs is to provide support to non-complex ATOs in order for them to define their individual organisational review format. The Agency believes that the proposed GMs will support implementation of the new ORA.200(c) rule. Therefore, the Agency decided to keep the GMs separate, whereby GM1 provides focussed guidance on the review process and GM2 proposes a list of typical items to be checked during the organisational review, to be adapted as necessary.

With regard to GM2, one commentator highlighted that interpretation issues could arise during the implementation of the organisational review in relation to the applicability of safety risk management-related provisions. The Agency acknowledges the potential emergence of such issues and amended GM2 to clarify that the review, whilst replacing the Safety Risk Management (SRM) and Compliance Monitoring (CM) functions as defined in ORA.GEN.200(a)(3) and (a)(6), will not remove the need for hazard identification, risk assessment and mitigation processes, which can be fully integrated into the activities of the organisation.

Furthermore, another commentator suggested the deletion, under training syllabi and course material, of the check for the 'flight instructor's standardisation actions'. The Agency did not delete this item, but amended the text to state 'instructor training practices are standardised' instead. Moreover, an alternative proposal on this item on contracted activities was made. The Agency reviewed this proposal and concludes that the proposal was rather prescriptive and assumed the notion of separate compliance monitoring managers. However, the Agency did amend the text by clearly distinguishing between 'new' providers and 'existing' providers.



### 3. References

#### 3.1. Affected decision

Decision 2012/007/Directorate R of the Executive Director of the Agency of 19 April 2012 on Acceptable Means of Compliance and Guidance Material to Commission Regulation (EU) No 1178/2011 of 3 November 2011 laying down technical requirements and administrative procedures related to civil aviation aircrew pursuant to Regulation (EC) No 216/2008 of the European Parliament and of the Council — ‘Acceptable Means of Compliance and Guidance Material to PART-ORA’

