



Alignment of implementing rules with Regulation (EU) No 376/2014

Related NPA/CRD 2016-19 — RMT.0681

EXECUTIVE SUMMARY

This Opinion delivers the results of two rulemaking tasks (RMTs): RMT.0599 ‘Update of ORO.FC’ and RMT.0681 ‘Alignment of implementing rules and acceptable means of compliance/guidance material with Regulation (EU) No 376/2014’. The detailed structure of this Opinion is given in Section 1.1.

The objective of this Opinion regarding RMT.0681 is to update Commission Regulation (EU) No 1178/2011 (the Aircrew Regulation) in order to be aligned with Regulation (EU) No 376/2014 as regards the reporting, analysis and follow-up of occurrences in civil aviation.

The changes proposed through RMT.0681 aim at mitigating the risks of overlaps and ambiguities that exist in the current regulatory framework due to the coexistence of reporting requirements in the delegated and implementing acts of Regulation (EU) 2018/1139 (the Basic Regulation) and in Regulation (EU) No 376/2014 and its delegated and implementing acts. The proposed changes are expected to increase legal certainty, support EASA standardisation inspections in the area of Regulation (EU) No 376/2014, and support the implementation of effective occurrence-reporting systems as part of safety management.

Action area:	Safety management		
Affected rules:	Part-ARA and Part-ORA of Commission Regulation (EU) No 1178/2011 (the Aircrew Regulation)		
Affected stakeholders:	Operators, pilots, approved training organisations (ATOs), competent authorities, and Member States.		
Driver:	Safety	Rulemaking group:	No
Impact assessment:	None	Rulemaking Procedure:	Standard

• EASA rulemaking process milestones

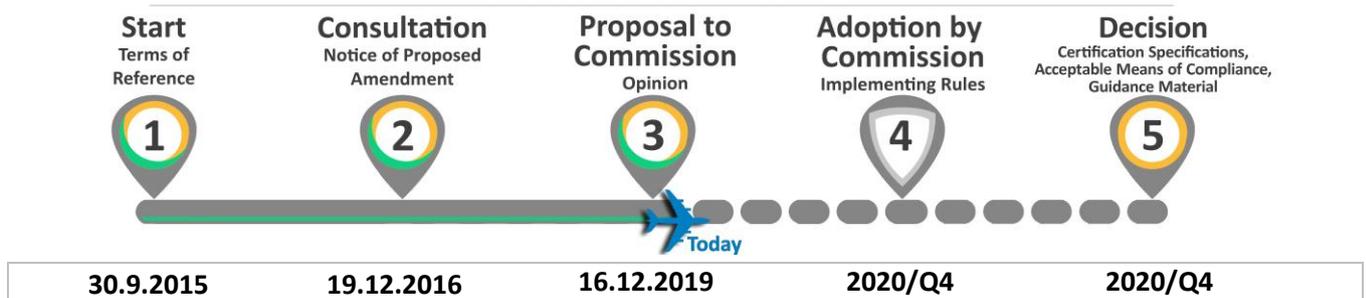


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1. About this Opinion

1.1. How this Opinion was developed

The European Union Aviation Safety Agency (EASA) developed this Opinion in line with Regulation (EU) 2018/1139¹ (the ‘Basic Regulation’) and the Rulemaking Procedure².

It contains the results of two RMTs into one consolidated document while separate explanatory notes elaborate on the background and provide detailed explanations for the different RMTs.

The structure of this Opinion, including its annexes, is the following:

- Opinion No 08/2019:
 - Opinion No 08/2019 (A) (Part A): Explanatory Note related to RMT.0599 ‘Update of ORO.FC — evidence-based training (EBT)’
 - Opinion No 08/2019 (B) (Part B): Explanatory Note related to RMT.0681 ‘Alignment of implementing rules with Regulation (EU) No 376/2014’
- Annex Ia to Opinion No 08/2019: draft Cover Regulation amending Regulation (EU) No 965/2012
- Annex Ib to Opinion No 08/2019: draft Annex to draft Cover Regulation amending Regulation (EU) No 965/2012
- Annex IIa to Opinion No 08/2019: draft Cover Regulation amending Regulation (EU) No 1178/2011
- Annex IIb to Opinion No 08/2019: draft Annex to draft Cover Regulation amending Regulation (EU) No 1178/2011

For the purpose of this document, references to ‘this Opinion’ or ‘this rulemaking activity’ shall be understood as referring to the scope of Opinion No 08/2019 (B). The related rulemaking activity is included in the European Plan for Aviation Safety (EPAS) [2019-2023](#) under RMT.0681. The scope and timescales of the task were defined in the related Terms of Reference (ToR)³.

The *draft* text of this Opinion has been developed by EASA. All interested parties were consulted through NPA 2016-19⁴. 355 comments were received from interested parties, including industry, national aviation authorities (NAAs), and social partners of which a total of 30 comments were related to the proposed amendments to Part-ARA and Part-ORA.

¹ Regulation (EU) 2018/1139 of the European Parliament and of the Council of 4 July 2018 on common rules in the field of civil aviation and establishing a European Union Aviation Safety Agency, and amending Regulations (EC) No 2111/2005, (EC) No 1008/2008, (EU) No 996/2010, (EU) No 376/2014 and Directives 2014/30/EU and 2014/53/EU of the European Parliament and of the Council, and repealing Regulations (EC) No 552/2004 and (EC) No 216/2008 of the European Parliament and of the Council and Council Regulation (EEC) No 3922/91 (OJ L 212, 22.8.2018, p. 1) (<https://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1536149403076&uri=CELEX:32018R1139>).

² EASA is bound to follow a structured rulemaking process as required by Article 115(1) of Regulation (EU) 2018/1139. Such a process has been adopted by the EASA Management Board (MB) and is referred to as the ‘Rulemaking Procedure’. See MB Decision No 18-2015 of 15 December 2015 replacing Decision 01/2012 concerning the procedure to be applied by EASA for the issuing of opinions, certification specifications and guidance material (<http://www.easa.europa.eu/the-agency/management-board/decisions/easa-mb-decision-18-2015-rulemaking-procedure>).

³ <https://www.easa.europa.eu/document-library/terms-of-reference-and-group-compositions/tor-rmt0681>

⁴ In accordance with Article 115 of Regulation (EU) 2018/1139, and Articles 6(3) and 7 of the Rulemaking Procedure.

EASA has addressed and responded to the comments received on the NPA. The comments received and EASA's responses to them were presented in Comment-Response Document (CRD) 2016-19⁵.

The *final* text of this Opinion and the draft regulation have been developed by EASA. The draft rule text proposed by EASA is published on the EASA website⁶.

The major milestones of this rulemaking activity are presented on the title page.

1.2. The next steps

This Opinion contains the proposed amendments to the Aircrew Regulation⁷. It is submitted to the European Commission, which will use it as a technical basis in order to prepare an EU regulation.

For information, EASA published the draft text for the related EASA decision that contains acceptable means of compliance (AMC) and guidance material (GM). The final decision that amends the AMC & GM will be published by EASA when the related regulation has been adopted by the European Commission.

⁵ <https://www.easa.europa.eu/document-library/comment-response-documents/crd-2016-19>

⁶ <http://easa.europa.eu/document-library/opinions>

⁷ 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).



2. In summary — why and what

2.1. Why we need to change the rules — issue/rationale

This proposal aims at mitigating the risks of overlaps and ambiguities that exist in the current regulatory framework due to the coexistence of reporting requirements in the delegated and implementing acts of the EASA Basic Regulation and in the Regulation (EU) No 376/2014⁸ and its delegated and implementing acts. The proposed changes are expected to increase legal certainty, support EASA standardisation inspections in the area of Regulation (EU) No 376/2014, and support the implementation of effective occurrence-reporting systems as part of safety management.

2.2. What we want to achieve — objectives

The overall objectives of the EASA system are defined in Article 1 of the Basic Regulation. This proposal will contribute to the achievement of the overall objectives by addressing the issues outlined in Section 2.1.

The specific objective of this proposal is to update the Aircrew Regulation in order to be aligned with the Occurrence Reporting Regulation.

2.3. How we want to achieve it — overview of the proposals

Regulation (EU) No 376/2014 contains specific obligations for EASA, Member States' competent authorities, individuals and approved organisations. These exist in parallel with the reporting obligations of the Basic Regulation and its implementing rules (IRs).

While all the IRs are overall deemed to be consistent with one another, in practice, there are overlaps and ambiguities in particular in relation to safety management/management system requirements, applicable to competent authorities and organisations respectively. These issues can be addressed by updating the requirements in the affected IRs in order to render them fully consistent with Regulation (EU) No 376/2014. The basic principle that reporting obligations can be discharged by using one single reporting channel is maintained.

The proposed changes will provide clarity on the relevant organisation requirements related to the maintenance of mandatory and voluntary reporting systems, the analysis and follow-up of occurrences or groups of occurrences, the implementation of 'just culture' principles as well as to the protection of the source of information. These requirements must be subject to the organisation's internal audit/compliance monitoring function, and to the competent authority's oversight.

Regulation (EU) No 376/2014 does not apply to organisations not having their principal place of business in an EU Member State, but staff of any EASA-approved organisations not having their principal place of business in an EU Member State are covered by Regulation (EU) No 376/2014. However, taking into account the objective of that Regulation, i.e. to ensure that relevant information is provided to the relevant competent authority in order for it to address potential safety issues, and considering that this type of occurrence reporting is also covered by the Basic Regulation and

⁸ Regulation (EU) No 376/2014 of the European Parliament and of the Council of 3 April 2014 on the reporting, analysis and follow-up of occurrences in civil aviation, amending Regulation (EU) No 996/2010 of the European Parliament and of the Council and repealing Directive 2003/42/EC of the European Parliament and of the Council and Commission Regulations (EC) No 1321/2007 and (EC) No 1330/2007 (OJ L 122, 24.4.2014, p. 18) (<https://eur-lex.europa.eu/legal-content/EN/TXT/?qid=1572945972125&uri=CELEX:32014R0376>).

applicable Bilateral Aviation Safety Agreements (BASAs), EASA already receives the requested information through channels established in accordance with those existing rules and agreements.

This proposal is only applicable to the Aircrew domain: Annex VI (Part-ARA) and Annex VII (Part-ORA) to the Aircrew Regulation.

2.4. What are the stakeholders' views — outcome of the consultation

Please refer to CRD 2016-19.

2.5. What are the expected benefits and drawbacks of the proposals

No IA has been conducted by EASA as this regulatory proposal transposes requirements of Regulation (EU) No 376/2014 that have been already applicable since 15 November 2015⁹.

It is understood that competent authorities and organisations have already adapted their policies, procedures and manuals to be aligned with said Regulation.

2.6. How we monitor and evaluate the rules

Occurrence reporting will be monitored and evaluated through the continued exchange of information between EASA and the Member States during EASA Advisory Body meetings as well as through the regular EASA standardisation inspections.

Cologne, 16 December 2019

Patrick KY
Executive Director

⁹ The impact assessment performed by the European Commission for Regulation (EU) No 376/2014 is available under: https://eur-lex.europa.eu/resource.html?uri=cellar:9535bf18-ec24-48fe-96ee-4cb01156a525.0001.02/DOC_1&format=PDF.

3. References

3.1. Affected regulations

- 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)

3.2. Related decisions

- Decision No 2012/006/Directorate R of the Executive Director of the European Aviation Safety 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-ARA')
- Decision No 2012/007/Directorate R of the Executive Director of the European Aviation Safety 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')

3.3. Other reference documents

- Regulation (EU) 2018/1139 of the European Parliament and of the Council of 4 July 2018 on common rules in the field of civil aviation and establishing a European Union Aviation Safety Agency, and amending Regulations (EC) No 2111/2005, (EC) No 1008/2008, (EU) No 996/2010, (EU) No 376/2014 and Directives 2014/30/EU and 2014/53/EU of the European Parliament and of the Council, and repealing Regulations (EC) No 552/2004 and (EC) No 216/2008 of the European Parliament and of the Council and Council Regulation (EEC) No 3922/91 (OJ L 212, 22.8.2018, p. 1)
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4. Related documents

CRD 2016-19 'Alignment of EASA Basic Regulation (Regulation (EU) 2018/1139) with the specific obligations stemming from Regulation (EU) No 376/2014'¹⁰

¹⁰ <https://www.easa.europa.eu/document-library/comment-response-documents/crd-2016-19>

