



# Terms of Reference

for a rulemaking task

## Maintenance of the Acceptable Means of Compliance and Guidance Material on Safety (Key) Performance Indicators for the Air Traffic Management Performance Scheme

RMT.0692 — ISSUE 2 — 23.10.2015

<b>Applicability</b>		<b>Process map</b>	
Affected regulations and decisions:	ED Decision 2014/035/R 'AMC & GM for the implementation and measurement of safety (Key) Performance Indicators (S(K)PIs)'	Concept Paper:	No
Affected stakeholders:	Air Navigation Service Providers; competent authorities	Rulemaking group:	No
Driver/origin:	Efficiency; proportionality	RIA type:	Light
Reference:	1-2015 ATM/ANS TAG meeting of April 2015; Performance Review Body meeting of June 2015	Technical consultation during NPA drafting:	No
		Publication date of the NPA:	2015/Q4
		Duration of NPA consultation:	4 weeks
		Review group:	No
		Focussed consultation:	No
		Publication date of the Opinion:	N/A
		Publication date of the Decision:	2015/Q4



## 1. Issue and reasoning for regulatory change

The need has been identified to initiate a Rulemaking Task (RMT) for the maintenance of the current Acceptable Means of Compliance (AMC) and Guidance Material (GM) of Decision 2014/035/R<sup>1</sup> on the Safety Key Performance Indicators (SKPIs) of Commission Implementing Regulation (EU) No 390/2013<sup>2</sup> (the ATM Performance Scheme Regulation). The European Aviation Safety Agency (hereinafter referred to as the 'Agency') was advised by the Air Traffic Management (ATM)/Air Navigation Services (ANS) Thematic Advisory Group (TAG) to do so.

With Commission Implementing Regulation (EU) No 390/2013, the ATM Performance Scheme requires Member States and Air Navigation Service Providers (ANSPs) to demonstrate that they meet the agreed EU targets that were published by the European Commission. As regards safety, the way to achieve this is by means of Safety Key Performance Indicators (SKPIs).

There are three SKPIs: Effectiveness of Safety Management (EoSM); severity classification using the Risk Analysis Tool (RAT) methodology; and Just Culture (JC). These SKPIs are assessed by means of questionnaires. The Agency has published AMC/GM to help ANSPs and competent authorities to fill in and review the various questionnaires.

The ATM/ANS TAG has identified an issue with respect to the RAT SKPI. This tool has been developed by EUROCONTROL, and it serves to assign severity levels to reported incidents. The relevant Agency's AMC/GM covers the methodology used by RAT in order to harmonise the severity classification applied when reporting occurrences. With respect to the second Reference Period (RP2), this means that the severity classification based on the RAT methodology must be applied to all occurrences classified as A to C.

The Agency's AMC/GM on RAT classification is now required to be amended because of changes to the RAT guidance and definitions. The ATM/ANS TAG indicated this inconsistency and encouraged the Agency to amend the AMC/GM accordingly.

Any inconsistency between the RAT methodology used by many ANSPs/competent authorities and the Agency's AMC/GM would create unnecessary burden on stakeholders, and would potentially prevent them from meeting the agreed targets.

In addition, the EoSM SKPI may be also impacted by current rulemaking developments (e.g. Common Requirements (EASA Opinion 03/2014<sup>3</sup>) to be voted by the Single Sky Committee (SSC)), and if not aligned, it could also increase the burden on stakeholders.

In addition to the changes to the RAT methodology, Regulation (EU) No 376/2014<sup>4</sup> on the reporting, analysis and follow-up of occurrences in civil aviation shall apply from 15 November 2015.

<sup>1</sup> Decision 2014/035/R of 16 December 2014 of the Executive Director of the Agency adopting Acceptable Means of Compliance and Guidance Material for point 1 of Section 2 of Annex I to Regulation (EU) No 390/2013 and repealing Decision 2011/017/R of the Executive Director of the Agency of 16 December 2011.

<sup>2</sup> Commission Implementing Regulation (EU) No 390/2013 of 3 May 2013 laying down a performance scheme for air navigation services and network functions (OJ L 128, 9.5.2013, p. 1).

<sup>3</sup> <http://www.easa.europa.eu/system/files/dfu/EN%20to%20EASA%20Opinion%2003-2014.pdf>

<sup>4</sup> 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).



When Directive 2003/42/EC<sup>5</sup> was repealed by Regulation (EU) No 376/2014, changes have been made to the reporting requirements. Since said Directive and reporting via the European Central Repository is referenced in AMC 8 SKPI 'RAT Methodology — Monitoring Mechanism', this AMC will also be updated.

Due to the reasons explained above and due to other, potential implementation feedback, an RMT is proposed for the maintenance of AMC/GM to the ATM Performance Scheme Regulation.

## 2. Objectives

The objective of this RMT is to amend the AMC/GM of ED Decision 2014/035/R in order to avoid inconsistencies that may prevent stakeholders from meeting the agreed targets of the ATM Performance Scheme and to cover other relevant implementation feedback as needed.

## 3. Activities

The following activities will be undertaken during the development of the draft AMC/GM and the Regulatory Impact Assessment (RIA):

- The AMC and GM relating to the RAT methodology is to be reviewed and updated where necessary.
- The look-up table for ATM-specific occurrences, to be found in 'Appendix 1 to GM11 SKPI — Look-up table for severity classification of ATM-specific occurrences', will also be updated.
- The AMC relating to Reporting on Severity Classification via the RAT Methodology will be updated in the light of Regulation (EU) No 376/2014.
- The entire AMC and GM will be reviewed for clarity and correctness.

Since the RAT methodology should be amended as early as possible, and the amendment of the EoSM should follow the adoption of the EASA Opinion 03/2014, it is foreseen that two Notices of Proposed Amendments (NPAs) will be published followed by the respective ED Decisions.

## 4. Deliverables

- Publication of first NPA: 2015/Q4,
- Publication of the related Comment-Response Document (CRD): 2015/Q4,
- Publication of the Decision: 2015/Q4,
- Publication of second NPA: December 2017,
- Publication of the related CRD: 2017/Q3,
- Publication of the Decision: 2017/Q4.

<sup>5</sup> Directive 2003/42/EC of the European Parliament and of the Council of 13 June 2003 on occurrence reporting in civil aviation (OJ L 167, 4.7.2003, p. 23).



## 5. Annex I: Reference documents

### 5.1. Affected regulations

N/A

### 5.2. Affected decisions

- ED Decision 2014/035/R of 16 December 2014 of the Executive Director of the Agency adopting Acceptable Means of Compliance and Guidance Material for point 1 of Section 2 of Annex I to Regulation (EU) No 390/2013 and repealing Decision 2011/017/R of the Executive Director of the Agency of 16 December 2011

### 5.3. Reference documents

- Commission Implementing Regulation (EU) No 390/2013 of 3 May 2013 laying down a performance scheme for air navigation services and network functions (OJ L 128, 9.5.2013, p. 1)
- Regulation (EU) No 376/2014 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)
- ED Decision 2014/035/R of 16 December 2014 of the Executive Director of the Agency adopting Acceptable Means of Compliance and Guidance Material for point 1 of Section 2 of Annex I to Regulation (EU) No 390/2013 and repealing Decision 2011/017/R of the Executive Director of the Agency of 16 December 2011
- NPA 2013-08 'Requirements for ATM/ANS providers and the safety oversight thereof'

