


OPERATIONS ADVISORY NOTICE (OAN)		 Transport Malta  Flight Operations Inspectorate Civil Aviation Directorate Transport Malta Malta Transport Centre Triq Pantar Lija LJA 2021 Malta
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Subject: Guidance to operators planning to commence an Air Service		

## 1.0 INTRODUCTION

- 1.0.1 The scope of this document is to provide guidance to both AOC applicants and AOC holders on the administrative procedures involved in holding an AOC in accordance with the regulations referenced below. It applies to Commission Regulation (EU) No 965/2012 of 5 October 2012. *This OAN supersedes OAN 02/10.*
- 1.0.2 An AOC, issued by Transport Malta Civil Aviation Directorate (CAD) is necessary for an air transport organisation to carry out any air service within the (European) Community in accordance with Council Regulation 1008/2008 on common rules for the operation of air services in the Community.
- 1.0.3 The requirements for the issuance of an AOC by the CAD are outlined in this Operations Advisory Notice. As the AOC is the certificate authorising a business to operate as an air transport organisation, the requirements apply to those operational and technical aspects of the business relating to equipment (including aircraft and their support equipment), organisation, staffing etc.
- 1.0.4 The requirements for the business organisation in terms of adequacy of capital, business plan and other commercial matters shall also have to be met. In these matters, the organisation shall be required to comply with the requirements of the CAD and to obtain an Air Operating Licence (AOL).
- 1.0.5 The operator must comply and satisfy all the requirements for the issue of an AOL prior the commencement of the technical process.
- 1.0.6 All international air transport operations are carried out under the Convention on International Civil Aviation ("The Chicago Convention") and are given effect through the Annexes to that Convention, issued by the International Civil Aviation Organisation (ICAO). While the Annexes form the basic structures of international civil aviation, ICAO also publishes additional documents providing guidance on the implementation of these Annexes. ICAO Document 8335, "Manual of Procedures for Operations Inspection, Certification and Continued Surveillance" states:

*“The method by which the State of the Operator exercises the necessary control of its operators is through the issuance of air operator certificates (AOC) without which it is contrary to International Standards to operate an international commercial air transport service. An AOC, once issued, should be subject to a revocation or suspension if the operator is subsequently unable to meet the conditions specified. States need to establish systems and procedures for the initial certification and the continuing surveillance of the operations. Such a system should be firmly based upon aviation law”.*

- 1.0.7 This is the basis on which the procedures for applications for an Air Operator's Certificate have been formulated and also the principles on which continued surveillance is carried out to ensure that any revisions are subject to the same standards as initial applications, and that all AOCs are reviewed under a documented process of audits and inspections.

## **2.0 REFERENCES**

- Commission Regulation (EU) No 965/2012 on Air Operations.
- Regulation (EC) No 1008/2008.
- ICAO Annex 6 Pt I.
- Air Navigation Order S.L. 232.05.

## **3.0 GENERAL RULES FOR AIR OPERATOR CERTIFICATION**

- 3.0.1 The requirements for Operator Certification and Supervision are detailed in Commission Regulation (EU) No 965/2012 (commonly referred to as “AIR-OPS”).
- 3.0.2 An operator shall not operate an aircraft for the purpose of commercial air transportation otherwise than under, and in accordance with, the terms of an Air Operator Certificate (AOC).
- 3.0.3 An applicant for an AOC, or variation of an AOC, shall allow the CAD to examine all safety aspects of the proposed operation and to provide the CAD with access to their personnel, aircraft, operations and facilities and associated records for the purpose of certification and continued surveillance.
- 3.0.4 An applicant for an AOC must:
- Have his principal place of business (PPoB) and, if any, his registered office located in Malta;
  - Satisfy the CAD that he is able to conduct safe operations.

### 3.0.5 EU 965/2012 defines the principal place of business as;

'principal place of business' means the head office or registered office of the organisation within which the principal financial functions and operational control of the activities referred to in this Regulation are exercised;

Regulation (EC) No. 1008/2008, which applies to the Air Operating Licence (AOL), also defines the PPOB as *"the head office or registered office of a Community air carrier in the Member State within which the principal financial functions and operational control, including continued airworthiness management, of the Community air carrier are exercised"*.

TM CAD's interpretation of the meaning of the above provision is set out below. In order for TM CAD to assume responsibility for regulatory safety oversight as the Competent Authority, the Organisation will need to meet the following criteria regarding corporate structure and effective operational and financial control to constitute evidence of their principal place of business being established in Malta:

- It must be evident that matters affecting existing operational and financial control, relevant to the organisation's activities in accordance with the applicable requirements, are controlled, decided and directed by the appointed nominated post holders, including the accountable manager, as a result of management meetings held in Malta as often as effective relevant decision-making requires. It is to be noted that the head office or registered office are the effective and actual centre of operations, and it shall not be an office where the organisation holds sporadic meetings that are attended by the accountable manager and the key personnel who travel here just for the occasion, nor an office where only a few meetings are held per year.; ***(The principal financial functions of an organisation comprise of all financial activities which are required to operate and maintain an organisation. These include receiving funds and profits, provide the dividends to shareholders, conduct due payments (salaries, employment benefits, debtors, investments, etc), pay tax or any other financial obligations and so forth. The principal operational control of its activities entails managing operational decisions of the company on a regular basis, as required by the organisation. The determination of the place of operational control of an organisation requires a case-by-case assessment by the authority).***
- Organisation must be registered within the Malta Business Register;
- Organisation must be in possession of a Malta VAT number;
- Operational correspondence must be processed at the organisation's Malta head office address; ***(The organisation's key personnel (Head of Training, Chief Flight Instructor, Safety Manager, Compliance Monitoring Manager, etc.) are responsible to hold operational management meetings and processing of operational correspondence, that ultimately lead to meeting the safety objectives of the EU aviation safety. The nominated persons should be resident in the PPOB; in case they are not permanently present at the PPOB, the coordination and processing of operational correspondence may be delegated to a responsible***

***person/s (e.g. deputy), however the ultimate responsibility shall lie with the nominated person/s.***

- ***Exercising the continuing airworthiness management from the PPOB does not preclude the organisation to use a CAM subcontractor located in a different Country. However, the active control of the subcontractor should be exercised by the CAM from the PPOB.***  
***In case the of contracted CAMO within a single air carrier business grouping, the continuing airworthiness contract should be monitored from the PPOB.***
- Pricing of services must be processed at the organisation's Malta head office address;
- Necessary human resources must be present at the organisation's Malta head office address, to ensure compliance with the organisation requirements and to meet the safety objectives; ***(The accountable manager, as the ultimate person responsible for safety and compliance should either reside permanently in the country where the PPOB is or demonstrate to the satisfaction of the Authority that there are suitable means in place for him/her to remain responsible for safety and compliance where he/she resides.)***
- All records regarding the operational and financial decisions affecting the direction, control and coordination of the organisation's activities and operations, within the scope of the applicable regulation, must be capable of on-site inspection at the Malta head office. It should be noted that the principal place of business may not necessarily be where the approved activity itself takes place, such as where the training facilities, production lines or maintenance facilities are located.

Note: In the case where the activity takes place in a country other than that in which the principal place of business is located, to ensure effective oversight of the organisation, co-operative oversight arrangements may be made between Competent Authorities. For organisations that have their "principal place of business" outside of the member states of the European Union the approval must be issued by EASA.

- 3.0.6 If an operator has aircraft registered in different Member States, appropriate arrangements shall be made to ensure appropriate safety oversight. The organisation shall grant CAD access to his organisation and aircraft and shall ensure that, with respect to maintenance, access is granted to any associated Part-145 maintenance organisation, to determine continued compliance with regulations.
- 3.0.7 An AOC will be varied, suspended or revoked if the CAD is no longer satisfied that the operator can maintain safe operations.
- 3.0.8 The operator must satisfy the CAD that:

- Its organisation and management are suitable and properly matched to the scale and scope of the operations, and
- Procedures for the supervision of the operations have been defined.

3.0.9 The operator shall appoint an accountable manager, who has the authority for ensuring that all activities can be financed and carried out in accordance with the applicable requirements. The accountable manager shall be responsible for establishing and maintaining an effective management system.

3.0.10 The operator shall nominate persons responsible for the management and supervision of the following areas:

- flight operations;
- crew training;
- ground operations; and
- continuing airworthiness in accordance with Regulation (EC) No 1321/2014.

3.0.11 Every flight shall be conducted in accordance with the provisions of the operations manual.

## **4.0 FACILITY REQUIREMENTS**

4.0.1 The operator shall:

- Make use of appropriate ground handling facilities to ensure the safe handling of its flights;
- Arrange operational support facilities at the main operating base, appropriate for the area and type of operation; and
- Ensure that the available working space at each operating base is sufficient for personnel whose actions may affect the safety of flight operations. Consideration shall be given to the needs of ground crew, personnel concerned with operational control, the storage and display of essential records and flight planning by crews.

## **5.0 OPERATOR RESPONSIBILITIES**

5.0.1 The operator shall ensure that its aircraft are equipped and its crews are qualified as required for the area and type of operation.

5.0.2 The operator must comply with the maintenance requirements, in accordance with Annex Vc (Part CAMO) to Commission Regulation (EU) No 1321/2014 on the continuing airworthiness of aircraft and aeronautical products, parts and appliances, and on the

approval of organisations and personnel involved in these tasks as amended, for all aircraft operated under the terms of the AOC.

## **6.0 ISSUE, VARIATION AND CONTINUED VALIDITY OF THE AOC**

6.0.1 The operator's certificate shall remain valid subject to:

- The operator remaining in compliance with the relevant requirements of Regulation (EU) 2018/1139 and its Implementing Rules, taking into account the provisions related to the handling of findings as specified under ORO.GEN.150;
- The competent authority being granted access to the operator to determine continued compliance with the relevant requirements of Regulation (EU) No 2018/1139;
- The certificate not being surrendered or revoked.

6.0.3 Upon revocation or surrender the certificate shall be returned to the competent authority without delay.

6.0.4 The Maintenance System has been approved by the CAD in accordance with Part CAMO.

6.0.5 The operator has satisfied the Civil Aviation Directorate that it has the ability to establish and maintain a management system as required by ORO.GEN.200.

6.0.6 Comply with required training programmes and with maintenance requirements, consistent with the nature and extent of the operations.

6.0.7 The operator must notify the CAD as soon as practicable of any changes to the information required to be submitted in accordance with the "Administrative Requirements" listed below.

6.0.8 In ensuring that the above requirements are met, the CAD may require the conduct of one or more demonstration flights, operated as if they were commercial air transport flights before the issuance of the AOC.

## **7.0 ADMINISTRATIVE REQUIREMENTS**

7.0.1 An operator shall ensure that the following information is included in the initial application for an AOC and, when applicable, a variation or renewal applied for:

- The official name and business name, telephone and fax details (including country code), e-mail to be provided if available, address and mailing address of the applicant;
- A description of the proposed operation including a detailed schedule of events;
- A description of the management organisation;
- The name of the Accountable Manager;

- The names and contact details of the nominated persons, including those responsible for Flight Operations, the Maintenance System, Crew Training and Ground Operations, together with their qualifications and experience (attested on a CV);
- The Operations Manual.

## **8.0 APPLICATION TIME FRAMES**

- 8.0.1 The application for the initial issue of an AOC should be submitted at least 90 days before the intended start date of operation. The operations manual may be submitted later, but in any case not later than 60 days before the intended start date of operation.
- 8.0.2 The application for the amendment of an air operator certificate (AOC) should be submitted at least 30 days before the date of the intended changes.
- 8.0.3 In the case of a planned change of a nominated person, the operator should inform CAD at least 20 days before the date of the proposed change.
- 8.0.4 Unforeseen changes should be notified at the earliest opportunity, in order to enable the CAD to determine continued compliance with the applicable requirements and to amend, if necessary, the AOC and related terms of approval.

## **9.0 OTHER REQUIREMENTS**

- 9.0.1 In parallel with the preparation for the commencement of operations as detailed above, the operator will be required to establish the following to fully comply with the requirements of Commission Regulation (EU) No 965/2012 on air operations.
- 9.0.2 Safety Management System which shall be commensurate with the size and complexity of the operation; and
- 9.0.3 Compliance Monitoring Programme; and
- 9.0.4 Flight Data Monitoring (FDM) programme for those aircraft in excess of 27,000 kg maximum take-off mass.

## **10.0 SAFETY OVERSIGHT**

- 10.0.1 Safety Oversight of each Operator to verify the continued validity of the AOC is carried out by the CAD through a documented process of audits and inspections.

TM CAD may, at any point, conduct unannounced or adhoc inspections as required by the oversight programme.

In accordance with national laws, Regulation (EU) No. 2018/1139 and its relevant implementing rules, organisations shall provide full access to any documentation, records, equipment, aircraft and facilities which the Director may wish to inspect or examine.

In this regard the interpretation of providing access to documentation for the of purpose of examining or inspecting data, may mean one or more of the below:

- Onsite physical access to documents, records, data, a system, aircraft, facility, etc.
- Direct access to a database or system through password access (NB: only viewing rights are required) for retrieval of data, documents, records, etc.
- Submission to TM-CAD of electronic or physical copies of the data, documents or records for an analysis to be conducted offsite.

The means of access to the above shall be agreed upon by TM-CAD with the operator. If access is refused or cannot be given, a non-compliance shall be issued.

## 11.0 INITIAL ISSUE OF AN AIR OPERATOR CERTIFICATE PROCEDURE

11.0.1 The procedure for application and the granting of an AOC is organised in phases and shall take the following sequence:

1. Pre-application phase
2. Formal application phase
3. Document evaluation phase
4. Inspection and demonstration phase; and
5. Certification phase

## 12.0 PRE-APPLICATION PHASE

12.0.1 A prospective operator who intends to apply for an AOC should enter into preliminary discussions with the Director General of the CAD and submit a Pre-Assessment Statement (POPS form).

12.0.2 It is essential that the prospective applicant has, in this pre-application phase, a clear understanding of the type of operations which may be authorised, as well as the form, content and documents required for the formal application.

12.0.3 In those cases where an applicant's organisation is in the formative stage and the applicant has little or no operating experience, the applicant should be advised that it may not be possible to judge the operating competence until a sufficient period of operational proving, including proving flight operations, has been carried out and that the over-all period required to reach a final decision on the application may be protracted and considerable financial outlays unavoidable.

12.0.4 The importance of a thorough and careful preliminary assessment of the application cannot be overemphasized. The more thoroughly the applicant's competence is established at this stage, the less likelihood there will be of having serious problems in the



document evaluation and the inspection and demonstration phases preceding certification or during the course of subsequent operations. Analysis of the application will indicate either that it is acceptable on a preliminary basis or that it is unacceptable. If in the latter case the deficiencies are such that they can be rectified, the applicant should be given a reasonable opportunity to resubmit the application. Such an assessment is essential at an early stage to reveal any critical deficiencies in the proposals and will enable the applicant to prepare alternative proposals addressing the identified deficiencies.

- 12.0.5 If the application is acceptable to the CAD on the basis of the preliminary assessment, the applicant may proceed with preparations for the commencement of operations, on the basis that an AOC will be issued subject to satisfactory completion of the remainder of the certification procedure. The pre-application phase should include a parallel assessment of the financial, economic and legal status of the applicant and the proposed operation. The financial viability of the operation may be the most critical factor in reaching a decision on whether or not an AOC should be awarded. The applicant needs guaranteed access to sufficient financial resources to obtain all required equipment, facilities and manpower and to fully support operations in the early stages when revenues are difficult to predict and may in any case be very low. Marginal or severely limited resources frequently result in an adverse effect on safety and efficiency; experience indicates that operators tend to take short cuts on such vital matters as required maintenance, acquisition of adequate spare parts, training of personnel and other similar matters with safety implications. The determination of the financial resources of the applicant is usually based on an audit of the operator's assets and liabilities and a thorough evaluation of all financial information and other pertinent data such as proposed arrangements for the purchase or lease of aircraft and major equipment.
- 12.0.6 Aspects that should therefore be considered are: sufficient financial resources; route structure and aircraft appropriate to the proposed operation; an intended level of service that meets a need or demand and is in the public interest; the proposed operation is in accordance with bilateral or multilateral air transport agreements relating to traffic rights, frequencies, capacity, routes, etc., to which the State is a party; and the availability of traffic studies or other data indicating that the proposed operation should be economically successful.
- 12.0.7 The CAD will undertake a thorough financial, economic and legal status assessment of the proposed operator, leading to the award of an Air Operating Licence (AOL), prior to the issue of the AOC certificate.
- 12.0.8 This assessment will also determine whether the applicant satisfies the criteria of the principal place of business set out in point 3.0.5.
- 12.0.9 It is essential that the financial, economic and legal aspects be assessed as satisfactory early in the certification process, before committing additional resources to that process. If the proposed operation is not considered to be viable in respect of the financial, economic and legal factors, further action should be suspended until it is determined whether these deficiencies can be rectified.

### 13.0 FORMAL APPLICATION PHASE

- 13.0.1 Upon completion of the assessment concerning the financial, economic and legal aspects of the application and after any deficiencies have been corrected; a provisional determination should be made regarding the general feasibility of the operation. If the operation is found to be provisionally acceptable, and the Director General for Civil Aviation has determined that the organisation satisfies the preliminary requirements to be granted with an AOL, then the second phase of the certification process will commence and the formal application phase can be undertaken.
- 13.0.2 The formal application for an AOC should be submitted in Centrik using the Air Operator's Certificate Application Form and attachments. The submission is prepared to show the method of compliance and is prepared for in-depth evaluation, demonstration and inspection related to the required manuals, training programmes, operational and maintenance facilities, aircraft, support equipment, record keeping, dangerous goods programme, flight crew, and key management personnel, including the functioning of the administrative and operational organisation.
- 13.0.3 All documents submitted with the application, including manuals, must be in bookmarked pdf format.

### 14.0 DOCUMENT EVALUATION PHASE

- 14.0.1 The document evaluation phase involves the detailed examination of all documentation and manuals provided by the applicant, to establish that every aspect required by the regulations is included and adequately covered.
- 14.0.2 In order to facilitate this phase of the certification process, the applicant should have coordinated all aspects of the development of the required documentation with the Flight Operations Inspectorate of the CAD, prior to the submission of the formal application.
- 14.0.3 It is recommended that the operators' compliance manager completes the first vetting of the Manual in order to ensure compliance and avoid comments like references which don't work or lack of customisation. TM CAD Manual review should not be burdened with the need to grammar/spell check the manuals. Copy and paste of regulation is not accepted.

### 15.0 INSPECTION AND DEMONSTRATION PHASE

- 15.0.1 Inspections in this phase will involve base and station facility inspections, inspection of the operational control and supervision facilities and inspection of training programmes and training facilities.
- 15.0.2 Demonstrations will involve demonstration of the operational control system, involves demonstration flights.

## **16.0 CERTIFICATION PHASE**

- 16.0.1 The certification phase is the conclusion of the certification process when **the CAD** has determined that all operational certification requirements, have been completed in a satisfactory manner, and that the operator will comply with the applicable regulations and is fully capable of fulfilling its responsibilities and of conducting a safe and efficient operation.
- 16.0.2 The culmination of this phase is the issuance of the AOC and the associated operations specifications under the authority of which the operation will be conducted.
- 16.0.3 Subsequent to the issuance of an AOC the CAD will be responsible for continued surveillance and for conducting periodic inspections to ensure the operator's continued compliance with EU-OPS Regulation and CAD regulations, authorisations, limitations and provisions of its AOC and operations specifications. These periodic inspections are components of a continuing safety oversight programme.

**Flight Operations Inspectorate**