

Nominated Persons Policy Document

Reference: Commission Regulation (EU) No 1178/2011, as amended.

CIVIL AVIATION DIRECTORATE

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0.1 PURPOSE OF THIS DOCUMENT

This policy document is designed to ensure commonality and transparency by CAD assessors in the evaluation of nominees for key positions with an Approved Training Organisation within the oversight of TM-CAD Personnel Licensing.

The following is an explanatory list of terms used in this policy:

- He / him / his - Apply equally to both genders.
- CAD - The competent authority in Malta.
- Organisation - The ATO holder or an entity that is in the process of applying for an ATO.
- Sponsor - The organisation nominating a candidate for acceptance in a key position by CAD.
- Assessor(s) - CAD personnel conducting assessments for the purpose evaluating the suitability of nominees for key posts.
- Nominee / Candidate - A person, sponsored by an organisation for acceptance by CAD in a key position within the organisation.
- Key Position (s) / Personnel – One or a combination of incumbencies within the organisation and includes:
 - Accountable Manager (AM)
 - Head of Training (HT)
 - Chief Flight Instructor (CFI)
 - Chief Theoretical Knowledge Instructor (CTKI)
 - Safety Manager (SM)
 - Compliance Manager (CM)

1.0 INTRODUCTION

In order to achieve an adequate level of safety in air operations both the Malta Civil Aviation Directorate (CAD) and the organisations holding ATO certificates must work in a consistent manner towards a common goal. To ensure compliance with the regulation, the CAD must establish means to oversee standards expected from the organisation. The assessment of the standard and competence of the organisation's personnel in key positions falls within the remit of the CAD. Although the responsibility for the induction of personnel in key positions rests with the organisation, the regulation obliges the competent authority to oversee that the required acceptance standards are met. This policy is embedded in the CAD PEL Manual and outlines the process to be applied to ensure transparency and consistency in the assessment / acceptance by CAD, of persons in key positions sponsored by an organisation. Essentially, nominees for key positions will be expected to satisfy to CAD that they possess the experience and qualification required for them to be able to fulfil their role within the management organisation of their sponsor and to ensure compliance with the regulation.

2.0 ACCEPTANCE PRE-REQUISITES (ORA.ATO.210)

Nominated persons in accordance with ORO.ATO.210 (and its AMCs) shall be expected to possess the experience and meet the licensing provisions that are listed hereunder.

Head of training (HT)

Except in the case of ATOs providing flight test training, the nominated HT shall have extensive experience in training as an instructor for professional pilot licences and associated ratings or certificates. The nominated HT shall hold or have held in the 3 years prior to first appointment as HT, a professional pilot licence and associated ratings or certificates issued in accordance with Part-FCL, related to the flight training courses provided.

Chief Flight Instructor (CFI)

The ATO providing flight instruction shall nominate a CFI who shall be responsible for the supervision of flight and flight simulation training instructors and for the standardisation of all flight instruction and flight simulation instruction. The CFI shall hold the highest professional pilot licence and associated ratings



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related to the flight training courses conducted and hold an instructor certificate with the privilege to instruct for at least one of the training courses provided.

The CFI shall, except in the case of ATOs providing flight test training, have completed 1 000 hours of flight time as pilot-in-command (PIC). At least 500 of those hours shall be on flying instructional duties related to the flying courses provided, of which 200 hours may be instrument ground time.

Chief Theoretical Knowledge Instructor (CTKI).

The ATO providing theoretical knowledge instruction shall nominate a CTKI who shall be responsible for the supervision of all theoretical knowledge instructors and for the standardisation of all theoretical knowledge instruction. The CTKI shall have extensive experience as a theoretical knowledge instructor in the areas relevant for the training provided by the ATO.

Furthermore:

Accountable Manager

The Accountable Manager is responsible for establishing and maintaining an effective management system, ensuring also that all activities can be financed and carried out in accordance with the appropriate requirements. The post holder shall have a proven track record in same or similar post.

Compliance Manager

The CM shall undertake the function to monitor compliance of the organisation with the relevant requirements. The post holder shall have a proven track record of audit planning and 24 months experience as auditor.

Safety Manager

The SM is responsible to coordinate the safety management system of the organisation. The post holder shall have proven track record of safety and knowledge of safety risk assessment and qualified in incident investigation and follow-up.

3.0 PROCESS FOR THE NOMINATION OF PERSON IN KEY POSITION(S)

In the case of, Accountable Manager, Nominated Person, Safety Manager or Compliance Manager, the sponsoring organisation shall submit, not less than ten (10) working days prior to proposed date of assessment:

- i. A formal application of proposal for nomination and;
- ii. Completed TM-CAD form 143.

The application shall be accompanied by the following documents:

- i. Curriculum Vitae;
- ii. Relevant Qualifications



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4.0 PROCESS FOR ASSESSMENT

- a) The assessment will be conducted at the offices of CAD. It is expected that the candidate has the company manual suite available with him.
- b) Assessors shall be Personnel Licensing Inspectors, Managers or Inspecting Officers (when the assessment team includes one of the preceding grades).
- c) Two assessors will be present during the session.
- d) The decision on the outcome of the assessment by the CAD assessors must be unanimous.
- e) In the event that the candidate is not accepted by the CAD, he shall not be permitted to reapply for the same post with the sponsoring organisation for a minimum period of twelve months.
- f) A list of topics (not exhaustive) for discussion can be found in Appendix A of this document.

For the avoidance of doubt, previous employment of a Key Person in a similar position with another organisation will not result in automatic acceptance by the CAD within the new organisation. The decision of the CAD assessors will be final and not subject to appeal.

5.0 PROVISIONAL ACCEPTANCE

CAD can provisionally accept sponsored nominees under one of two circumstances:

- a) In the event that the nominees are sponsored by an organisation that is in the process of attaining an ATO, then a full assessment of the nominees' knowledge of the organisation's processes would be limited, particularly since the documentation phase of the ATO application would be thereto incomplete. Under such circumstances, the CAD assessors may provisionally accept the sponsored nominees in their proposed incumbencies for the purpose of assisting with the establishment of the organisation's management system in pursuit of attaining an ATO.

Notwithstanding, at this initial stage of ATO attainment, the HT, CFI and CTKI or their deputies must be in possession of qualifications established under ORA.ATO.210. A provisional acceptance under this arrangement will be subject to a follow-up assessment after 3-6 months, by which time the provisionally accepted key personnel would have become familiar with the organisation's processes.

- b) If a candidate is proposed for a key position by an organisation already holding an ATO and during the CAD assessment the nominee reveals that he does not possess adequate qualification, he may be provisionally accepted, without prejudice to the statutory qualification requirements for HT, CFI and CTKI. In this case the assessors will invariably require the candidate to attend specific courses to meet established criteria hereunder. Under such circumstances, the provisional acceptance shall be for a period not greater than six months, until the required qualification criteria are met. This period may be extended for a further period of six months if proof has been provided that the qualifying courses have not been available within this period. If within this twelve month period, the nominee has not qualified in the assessed criteria, the CAD provisional acceptance will lapse and a new assessment by CAD will be required. It will be the responsibility of the organisation's Accountable Manager to notify CAD that his organisation is in default of requirements of this policy. The Accountable Manager shall advise the CAD on how the functions of the post will be fulfilled by the organisation.

6.0 ACCEPTANCE, NOTIFICATION AND CHANGES TO ATO

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The outcome of the assessment will be notified to the nominee's sponsor. In the event that the nominee is acceptable to the CAD, the sponsor will also be advised in writing if the acceptance is provisional and whether the contracted hours of employment are adequate. Written notification of acceptance (of the nominee) to the organisation shall include the proviso that should the operational situation of the organisation change from the circumstances at the time of acceptance of the nominee, the CAD reserves the right to review the acceptance criteria of the nominee. Case in point to this is in organisations where one person holds multiple key positions, erstwhile permissible due to the size and nature of the operation. If the organisation's size and scope of operation varies the CAD may also determine that a multiple key position holder relinquish one or more incumbency.

7.0 COMBINATION OF ROLES

The acceptability of one person holding more than one key role with, one role being the Accountable Manager, shall be dependent on the size and scope of the operation.

Competence – candidate must fulfil all requirements for all nominations that the organisation applies for and no credits shall be given for concurrent roles. Each organisation must declare the minimum working hours for each position. Working hours shall be dependent upon the scale of the operation but limited to the applicable Working Time Directive.

The complexity of the organisation or of the operation may prevent, or limit, combinations of nominations that may be acceptable in other circumstances. As applicable, appropriate amendments will be made to the Key Personnel section in the ATO.

7.1 Persons Holding Key Positions with Different ATO's

A person appointed as a nominated person by the holder of an ATO must not be appointed as a nominated person by the holder of any other ATO, unless acceptable to the Authorities concerned.

Holding Nomination in more than one ATO is acceptable under following conditions:

- i. The organisation must make arrangements to ensure continuity of supervision in the absence of nominated persons and thus have a declared deputy.
- ii. Nominated persons must be contracted to work sufficient hours to fulfil the management functions associated with the scale and scope of the operation.

A person shall not occupy a key position with more than 2 ATO holders.

8.0 WITHDRAWAL OF ACCEPTANCE

It must be understood that CAD acceptance of a nominee may be withdrawn at any time even after the nominee has embarked on substantive employment with the organisation. This process will only be initiated if a valid reason exists. Reason for such a withdrawal of acceptance include, but not limited to:

- i. Inadequate appropriate interaction with the CAD;
- ii. Persistent delays in closing audit findings;
- iii. Lack of qualification as a consequence of change management in size and scope;
- iv. Culpable infringement of regulations;
- v. Criminal / fraudulent activity.

9.0 GRANDFATHER RIGHTS

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This policy will become effective on the 16th November 2018. Other than the Acceptance Prerequisites established in ORA.ATO.210, persons accepted in key positions before this date are exempt from the qualification requirements stipulated in this policy. Notwithstanding, after the effective date of this policy, any change of incumbency within the same organisation or engagement within another organisation, or a change in the size and/or scope of the employing organisation may entail in the full application of the elements of the acceptance process, herein established.



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Appendix A

Assessors have the obligation to ensure that the nominated person/s being interviewed are correctly identified and adequately meet the requirements established by the regulation by means of their qualifications and experience. In this respect below are guidelines TM-CAD Personnel Licensing officials will use during the assessment, however questions might not be limited to the below in order to ensure a thorough assessment.

HT / CFI nominated person

Requirements:

Head of training (HT). Except in the case of ATOs providing flight test training, the nominated HT shall have extensive experience in training as an instructor for professional pilot licences and associated ratings or certificates.

- *The Head of training has overall responsibility to ensure training is in compliance with the appropriate regulations*
- *The Head of training must ensure training provided is in compliance with Part-FCL (In case of flight test training, with relevant requirements of Part-21)*
- *The Head of training must ensure the satisfactory integration of flight training in an aircraft or a FSTD and theoretical knowledge instruction*
- *The Head of training must supervise the progress of individual students*

Chief flight instructor (CFI). The ATO providing flight instruction shall nominate a CFI who shall be responsible for the supervision of flight and flight simulation training instructors and for the standardisation of all flight instruction and flight simulation instruction. The CFI shall hold the highest professional pilot licence and associated ratings related to the flight training courses conducted and hold an instructor certificate with the privilege to instruct for at least one of the training courses provided.

- *The CFI is ultimately responsible for ensuring standards of training*

Assessment:

- Assess nominee's licence, ratings, certificates and logbook
- Assess nominee's knowledge of current regulations that prescribe training requirements.
- Assess nominee's knowledge of the elements of the Safety Management System, the principles of the Compliance Monitoring System of the company
- Assess nominee's knowledge of EU regulations governing ATO's
- Assess nominee's knowledge of the role the position he is being nominated for has in Safety Management and Compliance Monitoring
- Assess nominee's knowledge of ATO manuals.
- Assess nominee's knowledge of Regulation Part-FCL
- Assess nominee's vision in lieu of the current training effectiveness of the ATO and possible way forward
- Assess nominee's hours of employment in relation to the scope of the ATO
- Assess nominee's general attitude towards the regulations and TM-CAD



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CTKI nominated person

Requirements:

Chief theoretical knowledge instructor (CTKI). The ATO providing theoretical knowledge instruction shall nominate a CTKI who shall be responsible for the supervision of all theoretical knowledge instructors and for the standardisation of all theoretical knowledge instruction. The CTKI shall have extensive experience as a theoretical knowledge instructor in the areas relevant for the training provided by the ATO.

Assessment:

- Assess nominee's qualifications and experience
- Assess nominee's knowledge of current regulations that prescribe theoretical instructor requirements.
- Assess nominee's knowledge of the elements of the Safety Management System, the principles of the Compliance Monitoring System of the company
- Assess nominee's knowledge of EU regulations governing ATO's
- Assess nominee's knowledge of the role the position he is being nominated for has in Safety Management and Compliance Monitoring
- Assessment of nominee's knowledge of ATO manuals
- Assess the nominee's aptitude and soft skills with students.
- Assess the nominee's knowledge of the ATO's procedure for standardisation of all theoretical knowledge instruction and supervision of TKIs
- Assess nominee's hours of employment in relation to the scope of the ATO
- Assess nominee's general attitude towards the regulations and TM-CAD

Accountable Manager

Requirements:

- *The Accountable Manager is responsible for establishing and maintaining an effective management system, ensuring also that all activities can be financed and carried out in accordance with the appropriate requirements.*
- *The Accountable Manager must have direct safety accountability for the ATO and remains ultimately responsible that the ATO remains in compliance with the applicable regulations*
- *The Accountable Manager shall be responsible that the ATO has sufficient qualified personnel, that the ATO maintains the appropriate staff and that personnel are aware of the rules and procedures to conduct their duties.*

Assessment:

- Assess nominee's knowledge of the elements of the Safety Management System, the principles of the Compliance Monitoring System of the company
- Assess nominee's knowledge of EU regulations governing ATO's
- Assess nominee's knowledge of his responsibilities as Accountable Manager
- Assess nominee's knowledge of the role the position he is being nominated for has in Safety Management and Compliance Monitoring
- Assess nominee's management experience and capabilities
- Assess nominee's knowledge of ATO manuals.
- Assess nominee's knowledge of Regulation Part-FCL
- Assess nominee's general attitude towards the regulations and TM-CAD



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Compliance Monitoring Manager nominated person

Requirements:

The organisation shall be responsible to nominate a person or group of persons with the responsibility of ensuring that the organisation remains in compliance with the applicable requirements.

- *The Compliance Monitoring Manager shall be responsible for ensuring that the compliance monitoring programme is properly implemented, maintained and continually reviewed and improved*
- *The Compliance Monitoring Manager shall have direct access to the Accountable Manager*
- *The Compliance Monitoring Manager shall have access to all parts of the ATO and, as necessary, the contracted organisations*

Assessment:

- Assess nominee's qualifications and experience
- Assess the nominee's knowledge of the principles of the Compliance Monitoring system in the organisation.
- Assess nominee's knowledge of EU regulations governing ATO's
- Assess nominee's knowledge of the elements of the Safety Management System, the principles of the Compliance Monitoring System of the company
- Assess nominee's knowledge of the role the position he is being nominated for has in Safety Management and Compliance Monitoring
- Assess the nominee's knowledge in Audit Planning and from where this requirement is derived from the regulation
- Assess the nominee's administrative skills with regards to findings and their safety impact on operations
- Assess the nominee's knowledge about regulation requirements that deals with Mandatory Occurrence Reporting.
- Assess the nominee's knowledge of a Compliance Monitoring Programme.
- Assess nominee's hours of employment in relation to the scope of the ATO
- Assess nominee's general attitude towards the regulations and TM-CAD

Safety Manager nominated person

Requirements:

The organisation shall identify a person who fulfils the role of Safety Manager and who is responsible for coordinating the safety management system of the organisation.

- *The safety manager is responsible for coordinating the safety management system.*

Assessment:

- Assess nominee's qualifications and experience
- Assess nominee's knowledge of the elements of the Safety Management System, the principles of the Compliance Monitoring System of the company
- Assess nominee's knowledge of EU regulations governing ATO's
- Assess nominee's knowledge of the role the position he is being nominated for has in Safety Management and Compliance Monitoring
- Assess nominee's knowledge of ATO manuals.
- Assess nominee's knowledge of ICAO Annexes dictating the requirements of SMS
- Assess nominee's knowledge of the EU regulation that governs Safety Management System



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- Assess nominee's knowledge on the components of SMS, purpose of the Safety Review Board, the HIRA process of the organisation, the SSP
- Assess nominee's knowledge on the regulation that applies in case of accident
- Assess nominee's knowledge on the levels of risk severity and probability applicable in the organisation, identification of hazards and mitigation of associated risks
- Assess nominee's hours of employment in relation to the scope of the ATO
- Assess nominee's general attitude towards the regulations and TM-CAD

PERSONNEL LICENSING SECTION



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