

## Nominated Persons Policy Document

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

### CIVIL AVIATION DIRECTORATE

Transport Malta, Malta Transport Centre, Pantar Road, Lija LJA 2021 Malta. Tel: +356 2555 5000 [cadpel.tm@transport.gov.mt](mailto:cadpel.tm@transport.gov.mt) [www.transport.gov.mt](http://www.transport.gov.mt)

#### 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 FSTD Operator 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 FSTD Operator or an entity that is in the process of applying for an FSTD Operator Approval.
- 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)
  - Safety Manager (SM)
  - Compliance Monitoring Manager (CMM)
  - Assigned Person

#### 1.0 INTRODUCTION

In order to achieve an adequate level of safety both the Malta Civil Aviation Directorate (CAD) and the organisations holding FSTD Operator certificates must work in a consistent manner towards a common goal. To ensure compliance with the regulation, 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.FSTD.100)

Nominated persons in accordance with ORA.FSTD.100 and ORA.FSTD.225 (and its AMCs) should be expected to possess the experience and meet the licensing provisions that are listed hereunder.

##### 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 should have a proven track record in same or similar post.

##### Compliance Monitoring Manager

The CMM should undertake the function to monitor compliance of the organisation with the relevant requirements. The post holder should have a proven track record of audit planning with 24 months experience as auditor. Also, sufficient knowledge and experience in Compliant Monitoring Management and FSTD Operations to operate a Compliance Monitoring System with an organisation operating FSTD.

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#### Safety Manager

The SM is responsible to coordinate the safety management system of the organisation. The post holder should have proven track record of safety and knowledge of safety risk assessment and health and safety procedures related to FSTD's.

#### Assigned person (ORA.FSTD.225) - FSTD Maintenance Manager

The assigned person of the organisation shall have adequate experience to review the regular reruns of the qualification test guide (QTG) and conduct the relevant functions and subjective tests as required by the Competent Authority.

#### Assigned person (AMC1 ORA.FSTD.225(b)(4) - Duration and continued validity

The assigned person should have experience in FSTDs and training. The person may have FSTD experience or training experience with an education in FSTD evaluation procedures only, provided the other element of expertise is available within the organisation and a procedure for undertaking the annual review and reporting to the competent authority is documented within the compliance monitoring function.

### 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 404.

The application shall be accompanied by the following documents:

- i. Curriculum Vitae;
- ii. Relevant Qualifications

### 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 FSTD Operator approval, then a full assessment of the nominees' knowledge of the organisation's processes would be limited, particularly since the documentation phase of the FSTD Operator

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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 FSTD Operator.

- b) If a candidate is proposed for a key position by an organisation already holding an FSTD Operator 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. 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 FSTD Operator's Approval.

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.

#### 7.1 Persons Holding Key Positions with Different FSTD Operator's Approval

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

Holding Nomination in more than one FSTD Operator 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.

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A person shall not occupy a key position with more than 2 FSTD Operators.

#### 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.

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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 the guidelines by which 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.

#### 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 FSTD Operator and remains ultimately responsible that the FSTD Operator remains in compliance with the applicable regulations*
- *The Accountable Manager shall be responsible that the FSTD Operator has sufficient qualified personnel, that the FSTD Operator 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 FSTD Operator'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 FSTD Operator manuals.
- Assess nominee's general attitude towards the regulations and TMCAD

#### 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 FSTD Operator 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 FSTD Operator's
- Assess nominee's knowledge of the elements of the Safety Management System, the principles of the Compliance Monitoring System of the company

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- 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 FSTD Operator
- 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 FSTD Operator'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 FSTD Operator 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
- 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 FSTD Operator
- Assess nominee's general attitude towards the regulations and TM-CAD

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#### FSTD Maintenance Manager

##### Requirements:

*The assigned person should have experience in FSTDs and training. The person may have FSTD experience or training experience with an education in FSTD evaluation procedures only, provided the other element of expertise is available within the organisation and a procedure for undertaking the annual review and reporting to the competent authority is documented within the compliance monitoring function..*

##### Assessment:

- Assess nominee's qualifications and experience
- Assess nominee's knowledge of the elements of FSTDs
- Assess nominee's knowledge of EU regulations governing FSTD Operator'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 the national health and safety regulations
- Assess nominee's knowledge of FSTD Operator manuals.
- 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 FSTD Operator
- Assess nominee's general attitude towards the regulations and TM-CAD