



Notice to Regulated Agents 4/2021

Mechanisms of Handling Deficiencies Committed by Regulated Agents

This notice serves to announce to all Regulated Agents (RAs) the mechanisms of **handling deficiencies committed by RAs** as regards non-compliance with the *Regulated Agent Security Programme (RASP)*, the *Handling Procedures for Regulated Agent Regime (Handling Procedures)* and other requirements stipulated in *Notices to RAs* with effect from 1 March 2021.

Background

2. With effect from **1 March 2021** (i.e. the commencement date of Phase 4 of the Transitional Arrangement for the International Civil Aviation Organisation's (ICAO) New Policy Direction on Air Cargo Security), all air cargo consignments will be subject to security screening prior to loading onto a commercial aircraft, unless they are originated from Known Consignors validated by the CAD. **To enhance regulatory oversight on RAs**, the CAD establishes the following **mechanisms of handling RAs' deficiencies**, which will become effective on the same day.

3. RAs' deficiencies will be broadly classified into **three categories according to their nature**: (A) Suspected Frauds, Falsifications or Forgery; (B) Major Deficiencies; and (C) General Deficiencies. Details and relevant handling mechanisms are included in the following paragraphs.

(A) Suspected Frauds, Falsifications or Forgery

4. Cases with elements of frauds, such as **presenting counterfeit documents (e.g. screening receipts or shipping documents)** and **performing RA functions without a valid RA status**, would fall into this category. The seriousness of such cases have been emphasised in *Notice to RAs 4/2020*. If the RAs concerned cannot provide an explanation to the satisfaction of the CAD, they will be **deregistered from CAD's RA register** and their requests for **reinstatement and / or re-registration** will **not** normally be considered. Such cases will also be **referred to the Hong Kong Police Force for investigations and follow-up**.

(B) Major Deficiencies

5. Major deficiencies refer to those **which have significant aviation security implications and / or which impair the agent’s capability as an RA**. Listed below are some non-exhaustive examples:-

- (i) Tendering unknown / unscreened cargo as known / screened cargo (See Note 1);
- (ii) Failing to implement effective security measures to prevent unlawful interference or ensure tamper-evident of known / screened cargo, including not using Secure Transportation (ST) means accepted by CAD when transporting known / screened cargo;
- (iii) Not having any qualified persons to take up the position of Nominated Persons; and
- (iv) Failing to implement a previous corrective action plan (CAP).

Note 1: During Transition Phase 4 (from 1 March 2021 and 30 June 2021), RAs which failed to arrange screening for unknown cargo (i.e. failing to meet the 100% screening requirement for unknown cargo) would be counted as “Failing to meet CAD’s screening percentage requirements in the Transition Period”, and be subject to the handling mechanism under para. 5(II) of *Notice to RAs 2/2020*. For details, please refer to https://www.cad.gov.hk/english/pdf/Notice_to_RA_2-2020_Screening_Summary_Report_Non-Compliance_Handling.pdf.

Handling Mechanism on Repeated Occurrence of Major Deficiencies

6. CAD would notify RAs when a major deficiency is identified in their operations. For each occurrence of major deficiency, the RAs concerned are required to submit a CAP to the satisfaction of CAD and implement the CAP accordingly. RAs **repeatedly committing major deficiencies** will be suspended or deregistered in accordance with the mechanism below:

<u>Cumulative no. of major deficiencies in the preceding one year</u> (See <u>Note 2</u>)	Action by CAD
1 st time	<u>Written warning</u>
2 nd time	<u>One-week suspension</u> of RA status
3 rd time	<u>Two-week suspension</u> of RA status
4 th time	<u>De-registration</u> of RA status

Note 2: All major deficiencies (even if they are different types of major deficiencies) committed by an RA in the preceding one year (i.e. on a one year rolling basis) would be counted under the above accumulation mechanism.

(C) General Deficiencies

7. General deficiencies refer to other deficiencies which **do not have significant aviation security implications and do not impair the agent’s capability as an RA, yet showing discrepancies with the RASP, Handling Procedures and Notices to RAs**. CAD will provide feedback to RAs for rectification and improvements. CAD may also require RAs to submit and implement a CAP to the satisfaction of the CAD subject to the seriousness and circumstances of the general deficiencies.

Corrective Action Plan

8. Whenever an RA is required by the CAD to submit a CAP, the RA should identify the root cause(s) leading to the deficiencies, and develop feasible and effective measures to rectify the deficiencies and avoid reoccurrences. **Failure to submit** a CAP to the satisfaction of CAD may result in **suspension or deregistration of the RA status**. Subsequent to the acceptance of a CAP, the CAD will conduct inspections to verify the RA's implementation of the accepted CAP. RAs found failing to implement an accepted CAP will be regarded as committing a major deficiency as mentioned in paragraph 5(iv) above.

Reinstatement of RA status

9. RAs deregistered by the CAD will have **one** chance for applying for reinstatement and such request must be made within **6 months** after deregistration. They would need to submit all outstanding documents / CAP, if any, and be subjected to inspection(s) by the CAD for reviewing its suitability to resume operations. The Nominated Persons of the RA would also need to pass the CAD's RAR revalidation test before the RAs could be considered for reinstatement.

Enquiries

10. For enquiries, please contact the CAD at 2910 6880, 2910 8695, 2910 8696 and 2910 8697 during office hours (09:00 – 12:00; 14:00 – 17:00) daily, except Saturday, Sunday and public holidays.

26 February 2021

Aviation Security Section

Airport Standards Division

Civil Aviation Department