



Notice to Regulated Agents 6/2021

Mechanism of Handling Deficiencies Committed by Regulated Agents (Revised)

This notice serves to announce to all Regulated Agents (RAs) the **revised mechanism of handling deficiencies committed by RAs (“mechanism”)** 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*. **This Notice will supersede the *Notice to RAs 4/2021* with effect from 1 July 2021.**

Background

2 The Civil Aviation Department (CAD) promulgated in *Notice to RAs 4/2021* the mechanism of handling deficiencies committed by RAs. In order to enhance regulatory oversight on RAs’ compliance with the latest international requirements from 1 July 2021 onwards, **the mechanism has been reviewed and revised. The changes to the mechanism are highlighted in yellow under paragraphs 6 - 9 below. In gist, when a RA commits a major deficiency and if certain criteria have been met, more stringent actions would be imposed on the RA concerned.** Other parts of the mechanism remain unchanged.

Categorisation of Deficiencies Committed by Regulated Agents

3 RAs’ deficiencies are 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*

RA 4/2020. If the RAs concerned cannot provide an explanation to the satisfaction of the CAD, they will be **de-registered 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;
- (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 the 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).

Handling Mechanism on Repeated Occurrence of Major Deficiencies (Revised)

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. **In general**, RAs **repeatedly committing major deficiencies** will be suspended or de-registered in accordance with the existing mechanism below.

<u>Cumulative</u> no. of cases involving major deficiencies in the preceding <u>one</u> year (See <u>Note</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 : 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.

Escalation of CAD's Action under Certain Situations

7. CAD's action described in paragraph 6 above would be escalated if certain situations of significant concern are identified during inspection or incident investigation, **such as:**

- (i) The major deficiencies committed by the RA are associated with incident(s) / occurrence(s)
- (ii) There is supporting evidence indicating that the RA has intentionally deviated from CAD's requirements
- (iii) There is supporting evidence indicating that the RA is uncooperative or unwilling to comply with CAD's requirements during the investigation process

8. If **one or more of the above situations** have been identified, **escalation would be effected by CAD**. The specific action would be subject to the extent and seriousness of the deficiencies and the circumstances of the cases.

Example:

For a RA which commits a major deficiency for the first time, if such deficiency is associated with an incident / occurrence, and it was identified during investigation that the RA has tendered the unscreened cargo concerned as screened cargo, **CAD's action described in paragraph 6 above (i.e. written warning) would be escalated. The specific action (i.e. no. of days of suspension or even de-registration) would be subject to the extent and seriousness of the deficiency and the circumstances of the case.**

9. CAD also reserves the right to suspend the RA concerned until further notice or de-register the RA concerned subject to the actual circumstances of the case.

(C) General Deficiencies

10. **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

11. 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 de-registration 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

12. RAs de-registered by the CAD will have **one** chance for applying for reinstatement and such request must be made within **6 months** after de-registration. 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

13. 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.

23 June 2021

Aviation Security Section
Airport Standards Division
Civil Aviation Department