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| | **Aeronautical Services**<br>**Advisory Memorandum**<br>**(ASAM)**<br>**Focal Point: GEN** | **ASAM**<br>**No: 004**<br>**Issue 11.0**<br>**Date 29.09.23** |
| **Title** | **Guidance on the NSA/CA Audit Finding Corrective Action Process** | |

## 1. Introduction

The objective of this document is to provide guidance to audited organisations, on the root cause and corrective action process to be followed in response to National Supervisory Authority (NSA) and Competent Authority (CA) audit findings. For information on the conduct and types of safety oversight audits undertaken by the CA please read ASAM No.34.

## 2. Scope

This document is applicable to service providers (SP) and air traffic controller training provider organisations (TO) who fall within the scope of safety oversight audits conducted by the IAA in its role as the NSA/CA for Ireland under the applicable requirements of European Regulation (EU) 2018/1139 and its implementing rules, as well as applicable SES Regulations (EC) No 549/2004, (EC) No 550/2004 and (EC) No 551/2004.

## 3. Audit Finding and Corrective Action Requirements: Legislation

Commission Implementing Regulation (EU) 2017/373 (Reg 373) and Commission Implementing Regulation (EU) 2015/340 (Reg340) identify several legal requirements specific to audit findings and corrective actions.

Reg 373 Part ATM/ANS.OR.A.055 'Findings and corrective actions' states
*'After receipt of notification of findings from the competent authority, the service provider shall:*
*(a) identify the root cause of the non-compliance;*
*(b) define a corrective action plan that meets the approval by the competent authority;*
*(c) demonstrate corrective action implementation to the satisfaction of the competent authority within the time period proposed by the service provider and agreed with that authority, as defined in point ATM/ANS.AR.C.050(e).'*

Reg 340 Part ATCO.OR.B.030 'Findings' states
*'After receipt of notification of findings issued by the competent authority in accordance with ATCO.AR.E.015, the training organisation shall:*
*(a) identify the root cause of the finding;*
*(b) define a corrective action plan; and*
*(c) demonstrate the corrective action implementation to the satisfaction of the competent authority within the period agreed with that authority as defined in ATCO.AR.E.015.*

Reg 373 AMC1 ATM/ANS.OR.A.055(b) 'Findings and corrective actions' states

*The corrective action plan defined by the service provider should address the effects of the non-conformity and its root cause.*

Reg 373 GM1 ATM/ANS.OR.A.055 'Findings and corrective actions' states

*(a) Corrective action is the action taken to eliminate or mitigate the root cause(s) and prevent the recurrence of existing detected non-compliance or other undesirable condition or situation.*

*(b) The proper determination of the root cause is crucial for defining effective corrective actions.*

Reg 340 GM1 ATCO.OR.B.030(a);(b) 'Findings' states

*(a) Corrective action is the action to eliminate the root cause of a non-compliance in order to prevent its recurrence.*

*(b) Determination of the root cause is crucial for defining effective corrective actions.*

**4. Corrective Action Process**

The objective of the corrective action process is firstly to identify and then to eliminate or mitigate the "root cause" of a non-compliance identified by audit of an SP/TO organisation. The organisation should formulate a plan which will outline how the non-compliance will be rectified, and addressed such that it doesn't reoccur, and how long that will take to implement. This is documented in a corrective action plan (CAP) and forward to the CA for its acceptance

**4.1 Level 1Finding**

Reg 373 Part ATM/ANS.AR.C.050 (e) (1) states '*In the case of level 1 findings, the competent authority shall take immediate and appropriate action, and may, if appropriate, limit, suspend or revoke in whole or in part the certificate while ensuring the continuity of services provided that safety is not compromised,'*.

Reg 340 Part ATCO.AR.E.015(d) states *'In the case of level 1 findings the competent authority shall take immediate and appropriate action to prohibit or limit activities, and if appropriate, it shall take action to revoke the certificate or to limit or suspend it in whole or in part, depending upon the extent of the finding, until successful corrective action has been taken by the training organisation.'*

The SP/TO may be required to take immediate and appropriate action and may be required by the CA to limit or suspend in whole or in part their services, provided that safety is not compromised. The measure(s) taken shall depend upon the extent of the finding and shall remain until successful corrective action has been taken by the service provider. In order to understand the risk posed by the noncompliance, the NSA/CA will require evidence from the audited organisation in the form of a risk assessment, and/or any other relevant data.

ANSD shall require that the immediate actions taken be documented and they, with the root cause and a corrective action plan (CAP) be submitted by a SP/TO (using the NCR form

ASD.F.237) no later than 5 working days from the date the finding was relayed by the NSA/CA (or sooner if required).

If the appropriate action outlined above is not taken, then a safety directive may be issued by the CA to limit or suspend in whole or in part an SP/TO services, provided that safety is not compromised (ref ATM/ANS.AR.A.030).

**4.2 Level 2 Finding**

Reg 373 Part ATM/ANS.AR.C.050 (e)(2)(i) states *'In the case of level 2 findings, the competent authority shall (i) grant the service provider a corrective action implementation period included in an action plan appropriate to the nature of the finding;'*

Reg 340 AMC1 ATCO.AR.E.015(d)(2) states '*The corrective action implementation period included in an action plan granted by the competent authority initially should not exceed three months.'*

No later than 3 working days after the closing meeting the audited SP/TO shall receive an individual NCR report form (ASD.F.237) for each finding. An SP/TO shall then submit a CAP (using each ASD.F.237 NCR form) no later than 15 working days (3 weeks) commencing from the day after receipt of these written NCR reports.

The SP/TO CAP shall include a root cause, a proposed corrective action(s) and an implementation period by which the non-compliance shall be addressed. See section '5. Summary 5.1' which lists the elements required in a CAP.

**4.3 CA action on receipt of a CAP**

Reg 373 Part ATM/ANS.AR.C.050 (e) (2) (ii) states the CA shall '*assess the corrective action and implementation plan proposed by the service provider and, if the assessment concludes that they are sufficient to address the non-compliance(s), accept them'*.

If the CA accepts the CAP it will inform the SP/TO. However, the CA may not accept all or part of a CAP proposal. The CA will communicate with the SP/TO in a timely manner with the intent to have a resolved CAP in place no later than 30 working days commencing from the day after the written NCR form ASD.F.237 is relayed to the SP/TO. Auditors will communicate either individually or through the lead auditor by email. Where it is indicated that action is needed regarding a particular CAP the SP/TO will update their original corresponding ASD.F.237 form with a reply and resubmit this as their updated CAP and insert a version number in the box provided bottom left corner.

Where CAPs are accepted the corresponding NCR form ASD.F.237 does not need to be resubmitted.

**Use of ANSD form ASD.F.239 (see sample at appendix C)**

At their discretion this excel form may be used by the auditor (or if consolidated by the audit lead) as a record to track the status of proposed CAPs. Following their assessment of the proposed CAP, the CA will populate and email it to the SP or TO. The SP/TO is not required to populate the excel form nor return it to the CA. Where it is indicated that action is needed regarding a particular CAP the SP/TO will update their original corresponding ASD.F.237 form with a reply (either adding to the original comment or replacing it altogether) and resubmit this as their updated CAP.

Upon receipt of the updated ASD.F.237 NCR form the CA will update the ASD.F.239 with its reply. The document is saved given the next numerical version and sent back until all items are accepted. Where CAPs are indicated as fully accepted the corresponding NCR does not need to be resubmitted.

Reg 373 Part ATM/ANS.AR.C.050 (e) (3) states *'In the case of level 2 findings, where the service provider fails to submit a corrective action plan that is acceptable to the competent authority in light of the finding, … the finding may be raised to a level 1 finding, and action taken as laid down in point* [(e)] (*1*).'

Reg 340 Part ATCO.AR.E.015 (d)(3) states *'Where a training organisation fails to submit an acceptable corrective action plan, … the finding shall be raised to a level 1 finding, and action shall be taken as laid down in point (d)(1).'*

Where the SP/TO fails to submit a corrective action plan that is acceptable to the NSA/CA or doesn't submit a CAP at all, the CA can raise the finding to a level 1 severity. However, pursuant to Regulation (EU) 2018/1139 Article 62(2)(d), Commission Regulation 2017/373 Article 5(4) and in accordance with the IAA Enforcement Policy SRD.010, where appropriate a SP /TO can be formally put on notice of enforcement action i.e., of the intent to raise a non-compliance severity from a level 2 to a level 1. Formal action will commence with a requirement in writing from the IAA to the SP/TO directing them to resolve the matter within a specified period. If the SP/TO does not address the action set down by the CA as outlined in the enforcement letter, then it shall be raised to a level 1 finding.

**4.4 CAP monitoring**

During the process each SP/TO is responsible for tracking the progress of its CAPs for each audit finding and take appropriate steps to ensure it adheres to CA agreed timelines. Each should have documented organisational procedures for root cause analysis, defining a corrective action plan and demonstrating corrective action implementation within the period agreed with the CA.

**4.5.CAP timeline extensions**

Reg 373 Part ATM/ANS.AR.C.050 (e) (3) states *'In the case of level 2 findings… where the service provider fails to perform the corrective action within the time period accepted or extended by the competent authority, the finding may be raised to a level 1 finding, and action taken as laid down in point* [(e)] (*1*).'

Reg 340 Part ATCO.AR.E.015 (d)(3) states *'Where a training organisation fails to… perform the corrective action within the time period accepted or extended by the competent authority, the finding shall be raised to a level 1 finding, and action shall be taken as laid down in point (d)(1).'*

The NSA/CA shall be notified where it becomes apparent to an audited organisation that the accepted period for completion of the agreed corrective action(s) will not be met. The audited organisation may request an extension citing the reason for not achieving the accepted timescales and the risk posed by continued noncompliance. To support its decision to grant an extension, the NSA/CA may require evidence in the form of a risk assessment, or any other relevant data. See section '5.Summary point 5.2' which lists the elements required in an extension request.

An auditor may grant one CAP extension per finding but no more. For any further extensions, the manager ANSD must give approval.

Where the SP/TO fails to perform the corrective action within the period accepted or extended by the NSA/CA, the finding can be raised to a level 1 finding. However, pursuant to Regulation (EU) 2018/1139 Article 62(2)(d), Regulation 2017/373 Article 5(4) and in accordance with the IAA Enforcement Policy SRD.010, where appropriate a SP /TO can be formally put on notice of enforcement action i.e., of the intent to raise a non-compliance severity from a level 2 to a level 1. Formal action will commence with a requirement in writing from the IAA to the SP/TO directing them to resolve the matter within a specified period. If the SP/TO does not address the action set down by the CA as outlined in the enforcement letter, then it shall be raised to a level 1 finding.

Where ANSD receive an extension request it will be recorded. The amount of extension requests received from an organisation, whether granted or not, will be monitored as an ANSD safety performance metric. This metric maybe used as an indicator of other potential issues within an SP/TO organisation which could warrant SRD examination. Therefore, an extension request should be the exception and not the norm to a CAP process.

For Level 2 findings, extension requests not submitted in a timely* manner, may be raised to a level 1 finding. An auditor will consult with the manager ANSD who must give approval. This will be communicated to the SP/TO.

Note - *Timely in this context is receipt by the CA of a CAP extension request at least ten (10) working days before the CAP closure date. This allows the CA to review the request, seek additional information and relay acceptance or non-acceptance. It also demonstrates to some level SP/TO organisational monitoring of their CAP.

## 5. Summary

### 5.1 Elements required in a CAP

For each finding, an SP/TO shall carry out a corrective action to eliminate (or mitigate) the root cause of a non-compliance to prevent its reoccurrence. This they shall document in a corrective action plan (CAP) which, at a minimum, shall include the following components:

- What was/is the root cause? (AMC)
- What was/is the effect of the non-conformity? (AMC)
- How was the root cause identified? (should be in line with org procedures)
- Confirmation and evidence that the root cause was identified by an appropriate subject matter expert (SME) (Safety assurance & traceability)
- Independent organisational confirmation that the appropriate root cause was identified (Safety assurance & traceability)
- Date of when the root cause was identified. (org traceability)
- The corrective action taken, or propose to take, to eliminate or mitigate the root cause of a non-compliance in order to prevent its recurrence. (AMC; safety assurance & traceability)
- The completion date (if already completed by time of the CAP drafting) or proposed timeline for corrective action implementation. (AMC; safety assurance & traceability)

The SP/TO shall forward the CAP to the CA in line with those timelines documented in this notice.

It shall then track the progress of the CAP to ensure it is implemented in accordance with the CA agreed schedule.

It will provide evidence of implementation.

All the above should be supported by organisational procedures to ensure personnel follow a standard complete and correct process for root cause analysis and elimination /mitigation of a non-compliance.

**5.2 Elements required in a CAP timeline extension request.**

Where an extension request is made it must

- be submitted at least 10 working days before the CAP closure date.
- include the reason why it is being sought; (why the SP/TO cannot adhere to the agreed timeline).
- include the actions that will be taken to ensure a further extension won't be sought.

**6. References**

1. Regulation (EU) 2018/1139, the Basic Regulation.

2. Commission Implementing Regulation (EU) 2017/373 laying down common requirements for providers of ATM/ANS and their oversight.

2. Commission Implementing Regulation (EU) 2015/340 ATCO Licensing and Training Organisations.

**7. Further Information**

Requests for further information on the contents of this notice should be addressed to ansdinfo@iaa.ie

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***Annex A: Audit Findings Classification Scheme:***

**Service Providers Reg (EU) 2017/373 Part ATM/ANS.AR.C.050**

A level 1 finding shall be issued by the competent authority when any serious non-compliance is detected with the applicable requirements of Commission Regulation (EU) 2018/1139 and its implementing rules as well as Regulations (EC) No 549/2004, (EC) No 550/2004, (EC) No 551/2004, and (EC) No 552/2004 and their implementing rules, with the service provider's procedures and manuals, with the terms of conditions of certificate or certificate, with the designation act, if applicable, or with the content of a declaration which poses a significant risk to flight safety or otherwise calls into question the service provider's capability to continue operations. Level 1 findings shall include but not be limited to:

(1) promulgating operational procedures and/or providing a service in a way which introduces a significant risk to flight safety;

(2) obtaining or maintaining the validity of the service provider's certificate by falsification of submitted documentary evidence;

(3) evidence of malpractice or fraudulent use of the service provider's certificate;

(4) the lack of an accountable manager.

A level 2 finding shall be issued by the competent authority when any other non-compliance is detected with the applicable requirements of Commission Regulation (EU) 2018/1139 and its implementing rules as well as Regulations (EC) No 549/2004, (EC) No 550/2004, (EC) No 551/2004, and (EC) No 552/2004 and their implementing rules, with the service provider's procedures and manuals or with the terms of conditions or certificate, or with the content of a declaration.

In the case of level 2 findings, where the service provider fails to submit a corrective action plan that is acceptable to the competent authority in light of the finding, or where the service provider fails to perform the corrective action within the time period accepted or extended by the competent authority, the finding may be raised to a level 1 finding, and action taken as laid down in point (1).

For those cases not requiring level 1 and 2 findings, the competent authority may issue observations.

Note - For a full understanding of the regulatory requirements please check the regulation and its specific acceptable means of compliance (AMCs) and guidance material (GM).

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***Annex B: Audit Findings Classification Scheme:***

**Training Organisations Reg (EU) 2015/340 Part ATCO.AR.E.015**

When a finding is detected during oversight or by any other means, the ASD shall, without prejudice to any additional action required by Regulation (EC) 2018/1139 and Regulation (EU) 2015/340, communicate the finding to the training organisation in writing and request corrective action to address the non-compliance(s) identified.

1. In the case of level 1 findings the ASD shall take immediate and appropriate action to prohibit or limit activities, and if appropriate, it shall take action to revoke the certificate or to limit or suspend it in whole or in part, depending upon the extent of the finding, until successful corrective action has been taken by the training organisation.

2. In the case of level 2 findings the ASD shall:
   (i) grant the training organisation a corrective action implementation period included in an action plan appropriate to the nature of the finding; and
   (ii) assess the corrective action and implementation plan proposed by the training organisation and, if the assessment concludes that they are sufficient to address the non-compliance(s), accept these.

3. Where a training organisation fails to submit an acceptable corrective action plan, or to perform the corrective action within the time period accepted or extended by the competent authority, the finding shall be raised to a level 1 finding, and action shall be taken as laid down in point 1.

The corrective action implementation period included in an action plan granted by ASD initially should not exceed three months. At the end of this period, and subject to the nature of the finding, the ASD may extend the three-month period subject to a satisfactory corrective action plan agreed to by ASD.

For those cases not requiring level 1 and 2 findings, the competent authority may issue observations.

Note - For a full understanding of the regulatory requirements please check the regulation and its specific acceptable means of compliance (AMCs) and guidance material (GM).

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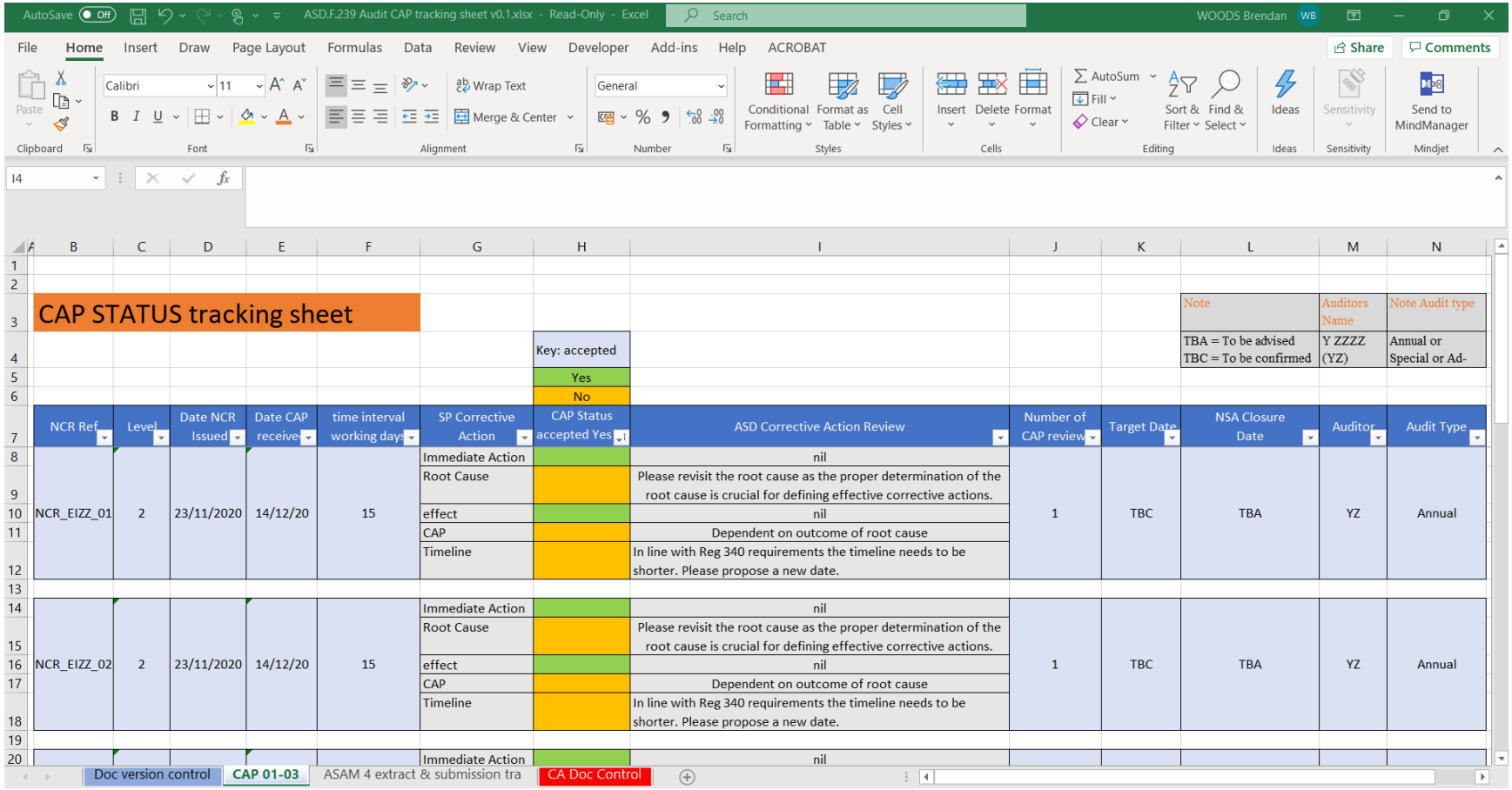
## *Appendix C – Print screen of sample ASD.F.239 CAP status tracking sheet*



CAP STATUS tracking sheet

| Note | Auditors Name | Note Audit type |
|---|---|---|
| TBA = To be advised<br>TBC = To be confirmed | Y ZZZZ (YZ) | Annual or Special or Ad- |

Key: accepted
Yes
No

| NCR Ref | Level | Date NCR Issued | Date CAP receive | time interval working days | SP Corrective Action | CAP Status accepted Yes | ASD Corrective Action Review | Number of CAP review | Target Date | NSA Closure Date | Auditor | Audit Type |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| NCR_EIZZ_01 | 2 | 23/11/2020 | 14/12/20 | 15 | Immediate Action | | nil | 1 | TBC | TBA | YZ | Annual |
| | | | | | Root Cause | | Please revisit the root cause as the proper determination of the root cause is crucial for defining effective corrective actions. | | | | | |
| | | | | | effect | | nil | | | | | |
| | | | | | CAP | | Dependent on outcome of root cause | | | | | |
| | | | | | Timeline | | In line with Reg 340 requirements the timeline needs to be shorter. Please propose a new date. | | | | | |
| NCR_EIZZ_02 | 2 | 23/11/2020 | 14/12/20 | 15 | Immediate Action | | nil | 1 | TBC | TBA | YZ | Annual |
| | | | | | Root Cause | | Please revisit the root cause as the proper determination of the root cause is crucial for defining effective corrective actions. | | | | | |
| | | | | | effect | | nil | | | | | |
| | | | | | CAP | | Dependent on outcome of root cause | | | | | |
| | | | | | Timeline | | In line with Reg 340 requirements the timeline needs to be shorter. Please propose a new date. | | | | | |
| | | | | | Immediate Action | | nil | | | | | |

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