

**Annual Report of the Travel Agency Commissioners**

**Submitted by the Travel Agency Commissioners**

Part II

**Sections A to C: Individual TACs' cases**

Below will be found each Commissioner's activity, starting with the reviews that were concluded with a formal decision, followed by those matters that did not give rise to a review or that were concluded without the need of a formal decision upon the Parties' agreement, ending with a brief summary of the ongoing matters.

The most common abbreviations used in this Report are:

AA = Agency Administrator (or his Deputy)  
ADM = Agency Debit Memo (or in plural, by adding an "s")  
Attch. = Attachment  
BG = Bank Guarantee  
DIP = Default Insurance Programme and/or Protection  
ERN = Exceptional Remittance Notice  
FS = Financial Statements  
IGFA = IATA's Global Financial Assesor  
IR = Interlocutory Relief  
IRR = Instances of Irregularities (or in plural with an "s")  
LFC = Local Financial Criteria  
NoI = Notice of Irregularity (or in plural, by adding an "s")  
NoD = Notice of Default  
NoS = Notice of Suspension  
NoT = Notice of Termination  
Par. = Paragraph  
PCoF = Prejudiced Collection of Funds  
PSAA = Passenger Sales Agency Agreement  
Res. = Resolution  
Sec. = Section  
STD = Standard Traffic Document (or in plural, by adding an "s")  
Sub-Par. = Sub-Paragraph  
TA – Ticketing authority  
VR - Voluntary Relinquishment

**Section A:**

**TRAVEL AGENCY COMMISSIONER AREA 1  
REVIEWS AND DECISIONS: SEPTEMBER 2013 – AUGUST 2014**

Considering that this Commissioner has acted on behalf of her colleagues in Areas 2 and 3 as their Deputy, the cases that have been handled by her in those areas are detailed in each one of them, with the exception of some generalities provided below for statistical reasons.

In this Section of the Report only matters concerning Area 1 will be reflected.

The total number of cases dealt with during this period was: **111**

Detailed as follows:

- (a) Formal Decisions = 29
  - In Area 1: 9
  - In Area 2: 7

In Area 3: 13

- (b) In the 3 Areas combined: Matters solved without requiring a formal decision: 49
- (c) In Area 1: Matters not given rise to a complete review and, thus, solved without requiring a formal decision: 28
- (d) In Area 1: Ongoing matters: 5

**General**

The summary of the decisions rendered in Area 1 is as follows:

Note: With the exception of a case in Guayaquil, Ecuador, all the reviews in Area 1 were conducted based on the documentary evidence alone.

<u>Time &amp; Place</u>	<u>Summary</u>	<u>Decision</u>
<p><b>29 October 2013</b>  Ciudad de México, México</p> <p>A1-2013/04</p>	<p>After being operating for more than 29 years as an Accredited Agent, Agent was suddenly suspended from the BSP as a result of IATA's internal investigation where it appeared that Agent was listed in the US Department of the Treasury's Office of Foreign Affairs Assets Control as a Specially Designated National for violations of Cuba-related economic sanctions.</p>	<p>Once received and pondered the evidence submitted by both Parties, the case was dismissed due to this Office's lack of jurisdiction to act in situations of the like.</p>
<p><b>16 November 2013</b>  Grand Cayman, The Cayman Islands</p> <p>A1-2013/05</p>	<p>This new Agent sought review of IATA's NoT. The reason for the termination being none submission of the requested BG on time. The BG was requested due to a lack of payment of a BSP Report. Several extensions were given by IATA to this Agent in order to allow the BG submission.</p>	<p>IATA's decision was upheld, since it was issued in accordance with the applicable Resolutions.</p> <p>After this review was concluded, the Agent re-applied and its IATA accreditation was granted again by IATA.</p>
<p><b>12 December 2013</b>  Recife, Brazil</p> <p>A1-2013/06</p>	<p>After more than 40 years as Accredited Agent, Agent was suspended from the BSP system for not submitting the BG on time. The reason behind the BG was the unsatisfactory results of the Agent's FS' evaluation.</p> <p>The Agent proved not having being timely and properly informed by IATA about the grounds for the unsatisfactory result of its assessment, and, hence for the need to provide a BG. It did not understand when disconnected from the BSP since at the time it was still waiting for an answer from IATA.</p>	<p>IATA's decision was upheld since the Agent did not comply with the LFC, however, based on the evidence on file where it was clearly demonstrated the lack of timely response not only from IATA but also from the Insurance provider, and considering that the BG process had already been unfolded, the Agent's immediate reinstatement in to the BSP system was ordered by this Office.</p> <p>A few days after being reinstated, Agent was able to submit the requested security.</p>
<p><b>26 January 2014</b></p>	<p>Agent was served a NoI and NoS from the BSP, allegedly due to a &lt;&lt;failure to comply</p>	<p>Based on the Parties' several allegations and proofs, this Commissioner decided:</p>

<u>Time &amp; Place</u>	<u>Summary</u>	<u>Decision</u>
<p>Guayaquil, Ecuador</p> <p>An oral hearing was held in this case.</p> <p>A1-2014/01</p>	<p>with the BG by a given deadline&gt;&gt;.</p> <p>Agent had a valid BG in place for a higher amount than the one requested, consequently, Agent upon receipt of the BG request asked IATA for clarifications. The reason behind the BG request was the unsatisfactory results of Agent's FS (capital below LFC). Once made aware of the situation, Agent immediately complied and raised the capital way over the minimum required in the LFC.</p> <p>Additional facts:</p> <ul style="list-style-type: none"> <li>-the BG request was made by unsigned and undated letter;</li> <li>-At first, the insurance provider denied the extension and to reduce the BG since the one in IATA's hands had still 6 months of validity; it later on changed its policy, but the Agent, waiting for IATA's clarification, had already been suspended from the BSP;</li> <li>-IR was requested and granted by this Office. Agent was reinstated while this review took place;</li> <li>-In order to provide the BG and fulfil the Insurance's requirements, Agent requested from IATA an explanatory formal letter stating the need to extend the still valid BG and to reduce the amount guaranteed accordingly. This letter was never received.</li> </ul>	<ul style="list-style-type: none"> <li>- To affirm her own jurisdiction to review the case, since the courses of action stated in Sub-Section 3.1 of Res. 820e is &lt;&lt;an <i>indicative summary</i>&gt;&gt;, and, therefore, in no way limiting the Commissioner's decisions to those mere examples;</li> <li>- As of the validity of the unsigned and undated BG request and the Ecuadorian law requirements, even though it would have certainly been more appropriate for the Respondent to have signed the referred letter, as it did sign all the other communications sent to the Agent, yet this lack of signature, in this particular case, does not entail the nullity of the document, since despite this fact the Agent was immediately able to identify the sender (IATA) and seek clarification from it.</li> </ul> <p>In regards to the undated element, which certainly is an oversight of the Respondent and as such shall be avoided in the future, does not entail the nullity of the letter. The fact of having been sent by email, which by definition has a date and time, provided the Agent the information that the letter lacked. The letter is presumed to have the same date of the email by which it was sent;</p> <ul style="list-style-type: none"> <li>-Concerning the communication via email itself, pursuant Resolution 818g "A" § 1.9.1, the Respondent complied with the correct procedure by not only sending the letter by courier but also by email to the Agent, as mandated in the referred provision. Electronic mail constitutes indeed a valid mean of communicating notices from the Respondent to Accredited Agents in accordance with the applicable Resolutions;</li> <li>-As of the time frame given to provide the BG, the current stage of the applicable Resolutions, namely § 2.2.1 of Res. 818g, it is the Respondent's prerogative to determine the due date for an Accredited Agent to submit a financial security provided the said term would be &lt;&lt;no earlier than 30 days and no later than 60 days from the date of such written notification&gt;&gt;; therefore, in principle, if a requested financial security is not submitted within the given time frame</li> </ul>

Time & Place      Summary      Decision

		<p>stated in the Respondent’s request, the Accredited Agent would have failed to comply with its obligation, in spite of the maximum length of time indicated in the commented provision, thus the Agent’s argument stating the contrary, was dismissed;</p> <p>- IATA’s argument claiming the Agent’s failure in requesting an extension of the time frame to submit the BG implies a negligent behaviour from the Agent was dismissed. Considering the circumstances of the case and the realistic fact that no Agent would <i>motu proprio</i> jeopardise its own business by not using a resource at hand, in accordance with the Balance of Probabilities’ Theory, it is more likely to ascertain that the Agent was unaware of this possibility rather than to affirm that it was negligent by purposely not using it;</p> <p>-As of the Constitutional provisions quoted by the Agent alleging a defenselessness situation: it is stated in the applicable Resolutions (Res. 818g, paragraph 2.2.1) that in case of non submission of a financial security within the given time frame shall be grounds for the &lt;&lt;withdrawal of all STDs&gt;&gt; of the Accredited Agent who failed to comply; hence, been stated in the Travel Agent’s Handbook (which forms part of the Agreement signed between the Parties) the content of this provision is presumed to be known by all Accredited Agents, and as such, no violation of Constitutional right can be invoked from a consequence of a non-compliance clearly stated in an applicable Resolution text. Therefore, the Constitutional right violation was dismissed;</p> <p>-Nevertheless, this Commissioner was satisfied from the findings of the case about the genuine intentions of the Agent to fulfil its obligations; it had acted in good faith and was reasonably expecting, as would be any business person who have had a commercial relationship with a legal entity for more than 20 years, a response to its timely and justified request; therefore, its delay in providing the BG is justified, it is an “Excusable Delay”, as enshrined in Res. 818g Section 13.9, and</p>
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<u>Time &amp; Place</u>	<u>Summary</u>	<u>Decision</u>
		could not be attributable to the Applicant's lack of diligence, but rather to circumstances beyond the reasonable control of the Agent; therefore, - The NoS and the Nol were declared null and void and, thus, removed from the Applicant's records.
<b>2 February 2014</b> Brasilia, Brazil  A1-2014/02	Agent was served a 6 <sup>th</sup> Nol and suspended from the BSP, allegedly due to non-payment of the proper amount on remittance date. Claims: -Upon receipt of the 1 <sup>st</sup> Nol, payment was done immediately after, as a consequence of which Agent thought irregularity was going to be removed; - 2 <sup>nd</sup> and 3 <sup>rd</sup> Nol were due to a change in IATA's account and wrong deposits made by Agent, due to the dual calendar system that exists in Brazil.	- IATA's decision stands: proper procedures were followed; enough time was given to the market to adjust to the new dual calendar system; grace period was given twice to the Agent before suspension; - Agent is to provide the requested BG, and should be reinstated right after.
<b>23 April 2014</b> Montevideo, Uruguay  A1-2014/03	Agent was suspended from the BSP, allegedly due to a lack of payment of a BSP Report. The unpaid amount corresponded to a cancellation of an invoice that the Agent had timely advised a Member Airline to do. However, the Member Airline admitted not having done it claiming not knowing how to process it.  IR was requested and granted by this Office.	Once made aware by this Office of this case's circumstances and evidence, IATA <i>motu proprio</i> withdrew the Nol originally served against the Agent. Despite this fact, Agent wanted to have a formal decision rendered by this Office, exculpating it from any wrongdoing in this case in order to <<preserve its clean record>>. Based on the evidence on file, a formal decision was rendered in the referred terms.
<b>7 May 2014</b> Medellín, Colombia  A1-2014/04	Agent challenged the results of its financial assessment, and, hence the need for it to submit a BG, alleging that the Clarifying Notes of its certified Books were not analysed by IATA.	Over the course of the review process it surfaced that despite the many explanations that Agent had provided to the Risk Assessment Department, the Clarifying Notes had not been submitted. A formal decision was issued allowing the submission of this key element for a proper financial assessment of an Agent's standing. As a result of an ulterior evaluation, no BG was needed.
<b>23 May 2014</b> San Pedro Sula, Honduras	Agent sought the removal of a Nol served against him, supposedly due to a lack of timely payment of a BSP Sales' Report.  IR was requested and granted by this	Once made aware by this Office of this case's circumstances and evidence, IATA <i>motu proprio</i> withdrew the Nol originally served against the Agent. Despite this fact, Agent wanted to have a formal decision

<u>Time &amp; Place</u>	<u>Summary</u>	<u>Decision</u>
A1-2014/05	Office. Over the course of the review process it was clearly demonstrated that the late payment was not due to a lack of timely remittance but to a manual processing system at IATA's clearing Bank, not in accordance with the new regulations of Honduran Central Bank when dealing with foreign currency transactions.	rendered by this Office, exculpating it from any wrongdoing in this case in order to <<preserve its clean record>>. Based on the evidence on file, a formal decision was rendered in the referred terms.

**TRAVEL AGENCY COMMISSIONER AREA 1  
MATTERS SOLVED WITHOUT A FORMAL DECISION  
SEPTEMBER 2013 – AUGUST 2014**

**General**

The main issues solved without the requirement of a formal Decision from this Office are summarised below, other less complex matters, as per example, granting extensions to submit BG, due to bank delays or other factors beyond the reasonable control of the Agents, will be stated in the following chapter for statistical purposes.

<u>Time &amp; Place</u>	<u>Summary</u>	<u>Outcome</u>
<b>20 September 2013</b> Tijuana, México	Agent was served with a NoD, preceded by a NoI due to a dishonoured remittance and no submission of BG on time as a result of unsatisfactory results of its FS' evaluation. Agent argued having a real estate property for a higher amount than the amount requested through the BG, notwithstanding that, it encountered difficulties with its Bank to issue the BG. Agent asked for extensions in submitting the BG and they were granted by IATA.	After reviewing the arguments and evidence on file, TAC concluded that IATA had followed correct procedure and instructed the Agent to comply or else no other option than termination seemed possible, under the current circumstances. Agent accepted. No further intervention was necessary from this Office.
<b>11 October 2013</b> Ribeirão Preto, Brazil	Agent contacted TAC seeking its reinstatement in to the BSP system and the removal of the NoI served against it, allegedly due to delay/discrepancy of payment.	During the course of the review process it was revealed that the payment had been made on IATA's wrong account due a miscommunication problem at BSP-Brazil. Once IATA was made aware by this Office of the facts of the case, it voluntarily withdrew the NoI and reinstated the Agent in to the BSP.
<b>9 January 2014</b> Paramaribo, Suriname	Agent requested the removal of a NoI imposed supposedly due to a non-payment of a BSP Sales' Report. Major claim: an error had occurred with	With the TAC intervention and the help of AA1, after an intense communication exchange between the local Banks involved in the transactions, the Agent and

<u>Time &amp; Place</u>	<u>Summary</u>	<u>Outcome</u>
	<p>the dual currency payment (in EUR and in US\$) non-attributable to Agent and payments made by Agent were not allocated in to its account, triggering its suspension from the BSP system.</p>	<p>IATA, it was finally determined that payments had been made on time and IATA, <i>motu proprio</i>, removed the Nol and reinstated the Agent in to the BSP.</p> <p>At the request of this Office, motivated by the Agent's desperate situation, IATA assisted the Agent in its process of getting its ticketing capacity back, mainly by indicating how to access the Member Airlines' contact information through the <i>BSPlink</i>.</p>
<p><b>17 January 2014</b> Santo Domingo, República Dominicana</p>	<p>Agent contacted this Office after being disconnected from the BSP system due to failure to provide the BG on time. The BG was requested as a consequence of a previous late remittance.</p> <p>Agent did not understand this requirement since it had submitted a BG to IATA that was still valid and was for an even bigger amount than the one currently requested. It had timely asked IATA for further advised, considering, in addition, the initial reticence from its Bank to renew a security that had still 6 months of validity ahead. No advice was provided but rather a suspension action was undertaken.</p> <p>IR was requested and granted by this Office.</p>	<p>During the course of this review process proper explanations were provided to the Agent by IATA, who also facilitated various alternatives for the Agent to follow in order to get the new BG in place and make its Bank to act accordingly.</p> <p>Agent was satisfied with the explanations and was able to provide the BG in the requested terms. The case was closed with the Parties' consent without any further intervention from this Office.</p>
<p><b>3 February 2014</b> Aracaju, Brazil</p>	<p>Agent was suspended from the BSP system due to accumulation of Irregularities for late payment (hours' late due to time difference between this city and Brasilia where the transfers are processed by IATA's Bank). Previous payment was not late but due to a mistake when writing IATA's Bank account number (amendments were immediately made after becoming aware). A BG was requested.</p>	<p>Considering the facts of the case and the evidence provided during the course of the review process, following the TAC's suggestion, IATA applied the "<i>minor error rule</i>", in accordance with the LFC, waiving the BG and swiftly reinstating the Agent in to the BSP system.</p>
<p><b>24 February 2014</b> Montevideo, Uruguay</p>	<p>Agent contacted the TAC after being suspended from the BSP and issued a Nol due to late payment. A BG request was served.</p>	<p>Upon request of the TAC evidence was provided, copying IATA, that funds were available at the Agent's account at the time of the suspension, however due to some minor Agent's mistakes and miscommunication problems, remittance was late.</p>

<u>Time &amp; Place</u>	<u>Summary</u>	<u>Outcome</u>
		<p>After confirming those facts, IATA, <i>motu proprio</i>, applied the “<b>minor error rule</b>” and waived the BG request.</p> <p>Agent was satisfied with the outcome of the review and case was closed without any further intervention from this Office.</p>
<p><b>10 March 2014</b>  Natal, Rio Grande do Norte, Brazil</p>	<p>Agent sought the withdrawal of the NoT, arguing having timely requested an extension of the time frame to submit the BG due to the Bank delayed procedures, considering that it was a provincial Bank depending on the country’s capital Head Office’s decisions.</p> <p>No response was received but rather a Termination letter was sent to Agent.</p>	<p>Once the evidence was brought to the attention of IATA by this Office, the termination letter was annulled, the Agent was reinstated as an Accredited Agent and the time frame to submit the BG was extended. Its status remained “suspended” at the BSP system since the BG was needed in order for it to comply with the LFC.</p> <p>In due time Agent provided the BG and was fully reinstated in to the BSP system.</p> <p>No further intervention was needed from this Office.</p>
<p><b>14 March 2014</b>  Paraiba, Brazil</p>	<p>Agent contacted the TAC after receipt of a NoT, due to 6 accumulated instances of irregularity. A BG was requested.</p>	<p>After analysing the evidence on file, TAC found that IATA had followed proper procedures at all times, and therefore, the BG needed to be provided in the given time frame.</p> <p>Agent understood and complied. However, it regretted not having been aware of the TAC facility at an earlier stage since the previous NoIs had been the result of unfortunate minor administrative errors that could have been timely removed from its records had he known about his rights.</p>
<p><b>21 March 2014</b>  Brasilia, Brazil</p>	<p>Agent sought an extension of the time frame to submit the BG, delayed due to internal Bank bureaucracy before the termination of its Passenger Sales Agency Agreement.</p> <p>IATA had extended the referred period in 2 previous occasions.</p>	<p>Based on the evidence on file, demonstrating the due diligences made by the Agent at its Bank and indeed revealing the Bank delays in processing the BG, after the TAC’s intervention, IATA did not terminate the Agent’s agreement. Agent was able to finally provide the BG and after having paid the reconnection fees was reinstated in to the BSP system.</p> <p>Case closed without any further intervention from this Office.</p>
<p><b>9 May 2014</b>  Hamilton, Bermuda</p>	<p>Agent contacted the TAC once suspended from the BSP due to failure to provide change of ownership documents within</p>	<p>Once made aware of this case’s evidence, IATA withdrew the NoI and swiftly reinstated the Agent in to the BSP system.</p>



<u>Time &amp; Place</u>	<u>Summary</u>	<u>Outcome</u>
	<p>the given time frame.  Agent claimed and proved having done so properly.</p>	<p>At first, IATA from the scanned documents that were originally received, had judged that one document had not been notarised and due to an unfortunate miscommunication problem with IATA's Customer Service, the solution applied was to suspend the Agent. Once the originals arrived, it was clear that the document in question had indeed been duly notarised since day one.</p> <p>Considering IATA's <i>motu proprio</i> actions, no need of further intervention from this Office was required.</p>
<p><b>26 May 2014</b>  São Paulo,  Brazil</p>	<p>Applicant contacted the TAC after its application being rejected on the grounds of failure to meet LFC. However, despite his constants request to IATA's Customer Service for details of such a failure, neither clarifications nor answers were ever provided.</p>	<p>During the course of the review process, once IATA was made aware of the facts, it duly informed the Applicant about the specifics that he did not meet before in order to comply with the LFC.  Applicant was satisfied with the explanations and decided to re-apply in a later date once its accounts would be in order.</p> <p>Recognising its inability to provide timely and proper information to the Applicant, IATA, acting on its own initiative, refunded the full amount of the application fee.  No further intervention from this Office was needed.-</p>
<p><b>18 June 2014</b>  Toronto,  Canada</p> <p>Conference Call was held between the Parties</p>	<p>As a result of the Agent's FS' evaluation a Financial Security (Line of Credit- "LoC") was requested. Agent had a shortfall in the tangible net worth by CAD\$ 3,481 out of the CAD\$ 35,000 required in the LFC.</p> <p>Agent did not deny the shortfall but suggested a different solution than submitting the LoC, in order to comply with the LFC, based on an interpretation of Clauses 4.1.1(f) and 4.1.1(g) of the LFC. In fact, the Agent had proposed to inject the missing CAD \$ 3,581 in to the company in order to cover the deficiency.</p>	<p>After analysing both Parties' submissions, TAC proposed a conference call in order for the Parties to reach an agreement, which indeed was achieved:  -IATA accepted the Agent's proposal,  -Agent had to provide an Affidavit from the shareholders of the company clearly stating that those funds will remain deposited in the Agent's bank account as part of the Agent's net tangible worth until the end of this fiscal year (Dec. 2014).  -No further Financial Security was required.</p>
<p><b>14 July 2014</b>  Puerto Ordaz,  Venezuela</p>	<p>Agent sought a TAC review after being suspended from the BSP due to a late remittance; it was served with a Nol. A BG was requested.  Agent claimed severe political violence</p>	<p>Once the compelling evidence was reviewed by this Office and IATA was made aware of it, following a TAC suggestion, IATA <i>motu proprio</i> decided to withdraw the Nol.</p>

<u>Time &amp; Place</u>	<u>Summary</u>	<u>Outcome</u>
	impeding the personal Bank deposit on time.	FS were required from Agent as part of its annual evaluation and since the result was satisfactory, no need to provide a BG. The case was closed without further intervention from this Office.
<p><b>29 July 2014</b> Buenos Aires, Argentina</p> <p>Conference Call was held between the Parties</p>	<p>Agent challenged the methodology used by IATA's assessors reaching an unsatisfactory result in its annual financial evaluation due to the difference in determining the liquidity ratio.</p> <p>Fact: at the time of the review, Agent had a valid BG (US\$ 3,000,000) expiring in the coming month.</p>	<p>During the course of the review and after having held a conference call between the Parties, it surfaced that once the BG would have expired, the amount would go back in to the Agent's balance and, therefore, reflecting a total compliance with the LFC. Hence, no BG would be needed due to the financial soundness of the Agent.</p> <p>Parties agreed to leave their differences regarding the methodology used by the assessors aside, and, considering that the new cash injection would make unnecessary any BG, both of them were satisfied with the outcome and the case was closed without the need of any formal decision from this Office.</p>
<p><b>5 August 2014</b> Buenos Aires, Argentina</p> <p>Conference Call was held between the Parties</p>	<p>Due to an unsatisfactory result of the financial evaluation, Agent challenged the way it was supposed to present the BG by having to deal with brokers, demanding hefty commissions, suggesting instead to present real estate of its ownership aiming at fulfilling the Minimum Tangible Net Worth mandated in the LFC.</p>	<p>After reviewing the evidence and both Parties' submissions, it was clear that:</p> <ul style="list-style-type: none"> <li>-Since the Agent was not a sole proprietorship but a corporation (even though with the Applicant holding 80% of the shares and his sister the remaining % with the sole purpose of complying with local law), LFC did not allow the real estate option for this kind of legal entities;</li> <li>-Considering a sales' decrease during the last 12 months it was revealed that the amount of BG initially requested by IATA was higher than the amount actually required;</li> <li>-Considering that the Agent had a BG in IATA's favour (US \$ 549,000) still valid, it was simply required for the Agent to extend the validity of the existing BG until August 2015 without the need to contact any broker or intermediary.</li> </ul> <p>No further intervention from this Office was necessary.</p> <p>Since Agent wanted to propose a change in the LFC for Argentina, considering the current economic and financial situation of the country, it was suggested by the TAC &amp;</p>

<u>Time &amp; Place</u>	<u>Summary</u>	<u>Outcome</u>
		IATA to contact local representatives of the APJC in order to work on the proposal. Contact information to the Secretary of the APJC was provided to the Agent.
<b>13 August 2014</b> Guatemala	Due to an unsatisfactory result of its financial evaluation, Agent challenged IATA's methodology used in its assessment.  As IR, once the facts were presented by the TAC and evaluated by IATA, it <i>motu proprio</i> , decided to stay action of its own BG request until the TAC review would have concluded.	During the review, Agent explained some aspects of its FS and was allowed to submit the Clarifying Notes from its accountants; IATA made a reassessment and the result was satisfactory. No BG was required. Case closed without further intervention from this Office.
<b>26 August 2014</b> Bogotá, Colombia	Agent challenged IATA's unsatisfactory results of its FS arguing that important elements on them were not considered by the assessors and others were not interpreted in accordance with the applicable Colombian Law. A BG had been requested.  As IR, once the facts were presented by the TAC and evaluated by IATA, it <i>motu proprio</i> , decided to stay action of its own BG request until the TAC review would have concluded.	During the course of the review it became evident that the BG request to the Agent had been highly confusing and that indeed Agent seemed to comply with the LFC. However, an individual certification of the accountant was needed, instead of the general one submitted. Once made aware by this Office, IATA reconsidered the case, allowed the Agent to present the individual certification and re-evaluated its financial standing, resulting in a satisfactory assessment. No BG was needed.  No further intervention from this Office was required.

**TRAVEL AGENCY COMMISSIONER AREA 1**  
**MATTERS NOT GIVING RISE TO A FORMAL REVIEW**  
**SEPTEMBER 2013 – AUGUST 2014**

The matters that will be numbered below were solved without major intervention from this Office, either because Agent had contacted the TAC too late (mostly because it was unaware of its right to have IATA's decisions reviewed) or because the evidence showed that there was nothing that could be done by this Office to change the outcome of the Agent's situation. The cases are:

- (a) Extensions to provide BG and/or FS for further evaluation/clarifications (5):
  - Uruguay – 1
  - Venezuela – 1
  - Panama – 1
  - Brazil - 2
- (b) Inability to timely comply with LFC and, hence, being terminated by IATA having followed proper procedures (2):
  - Canada - 1
  - Ecuador – 1
- (c) BG return procedure; information about accreditation process in general; irregularities (3):

- Brazil – 1
- México – 1
- Venezuela - 1

(d) Instructions concerning renewal/new BG since Banks and Agents alike do not understand IATA’s requirements when former issued BG are still valid (3):

- Brazil – 2
- Dominican Republic – 1

NOTE: This Commissioner has brought to the attention of IATA-MIA’s team the lack of clarity of this IATA’s BG request letter. IATA-MIA is reviewing the matter in order to draft a clearer letter for the better understanding of Agents and Banks alike.

(e) Transfers to Cargo Commissioner (1):

- Ecuador – 1

(f) General issues, as: referring Agents to IATA’s Customer Service portal (*id est*, accreditation), or responding general procedural questions or transferring to IATAN or getting IATA’s assistance to Agents after being reinstated in to the BSP in contacting Member Airlines (12):

- Brazil - 1
- Jamaica – 1
- Dominican Republic – 2
- México - 1
- United States – 2
- Canada – 2
- Colombia – 2
- Uruguay – 1

(g) Dismissal (1):

- Argentina/Bolivia – 1

Time & Place

Summary

Outcome

<u>Time &amp; Place</u>	<u>Summary</u>	<u>Outcome</u>
30 Sept., 2014 Canada	Agent contacted TAC in order to obtain information about the status of her FS’ evaluation after having been disconnected from the BSP system.	Once the TAC contacted AA1, information was immediately provided to Agent. The results were actually satisfactory, so no need to submit any LoC. However, Agent requested assistance in her reinstatement process, alleging that Member Airlines were reluctant to give their ticketing capacity back assuming that her financial condition was not sound. After an intense exchange of communications, IATA provided the Agent with indications to be given to Member Airlines encouraging them to contact IATA through the Customer Care portal and request IATA direct information about the Agent’s soundness.

**TRAVEL AGENCY COMMISSIONER AREA 1  
ON GOING MATTERS**

Currently there are 5 ongoing cases.

They can be categorised as follows:

(a) Extensions to provide BG aiming at reinstatement/accreditation:

- Grand Cayman – 1
- Brazil – 1

(b) Reassessment of FS:  
Colombia – 1

(c) IATA's procedures when dealing with ADM matters:  
Ecuador – 1  
Brazil – 1

Section B

**TRAVEL AGENCY COMMISSIONER AREA 2  
PUBLISHED DECISIONS – SEPTEMBER 2013 TO AUGUST 2014**

Reviews were mainly based upon documentary evidence only. Included in this part of the Report are the Official Decisions and also summaries of the four oral hearings conducted in Area 2 during this period.

Contributed to the change in IATA’s hubs’ approach to resolve “excusable minor administrative errors” without upholding suspensions or defaults, the vast majority of reviews in Area 2 have been swiftly and cost effectively concluded **without formal Decision** and are **not published nor individually described in this Report**.

Some issues were resolved with a few clarifying contacts, others took “hours”. Some Agents had multiple requests for review and almost all of these reviews could be closed, with consent from both Parties, **often after IATA’s own initiative** to accept “excusable minor administrative errors”, and also when this Commissioner, after conducting a full review, had found that IATA had followed proper procedures and Agents had recognised that a formal TAC Decision would not change the outcome of IATA’s actions.

TAC2 wants to specially acknowledge the efficiency and good spirit of cooperation demonstrated by IATA representatives in both MAD and AMM hubs.

In numbers the activity in Area 2 can be summarised as follows:

Total cases handled in AREA 2: **310**

**Handled by TAC2**

Detailed as:  
28 posted formal Decisions  
208 reviews closed without formal Decisions  
49 reviews initiated in this reporting period and still open

**Handled by TAC1** acting in her capacity of Deputy TAC2

Detailed as:  
7 posted formal Decisions  
18 matters closed without formal Decisions  
No ongoing matters to this date.

Posted

<u>Decision No.</u>	<u>Summary</u>	<u>Decision</u>
<b>A2/2013-47</b> <b>Greece</b>	<p>Default rendered due to short payment of € 1,309 (out of a total of more than € 400,000), caused by human error.</p> <p>BG requested by IATA <b>to accept IR</b> during review exceeded € 1,2 million.</p> <p><b>TAC IR decision was not accepted/ implemented by IATA</b> so the Agent turned to the Superior Court of Montréal , who ordered IATA <i>”to immediately re-allocate BSP ticketing access to ... (The Agent) to the exact</i></p>	<p>IR was granted because there was no risk of Airlines funds; IATA acknowledged that there was no risk but insisted on the need of a BG to temporarily reinstate during the TAC review process.</p> <p>This effectively makes a TAC IR Decision a legal impossibility or a non-sense situation when IATA insists to request a BG from an Agent as a condition to grant an IR in <b>cases when precisely the BG itself is the one subject matter of the review.</b></p> <p>A final Decision was rendered mainly based on Resolution 818g §13.9: <i>”...The Agent <b>shall not be liable</b> for delay or failure to comply with the terms of the Passenger Sales Agency Agreement</i></p>

	<p><i>level and conditions as those existing before the 3<sup>rd</sup> of September 2013 without direct or indirect conditions."</i></p> <p>Agent was reinstated and IATA chose to take this case to arbitration. The Parties settled before a formal Decision was rendered by the Arbitrator.</p>	<p><i>to the extent that such delay or failure... is not the result of the Agent's lack of <b>reasonable diligence</b> (an "Excusable Delay")."</i></p>
<p><b>A2/2013-48 to 52</b> <b>Madagascar</b></p>	<p>5 Agents seeking to revoke IATA's NoT because of "late payment of annual fee".</p>	<p>IATA's Decision not upheld - Hard copy of Invoice was not received and Local Law does not allow transfer of "foreign currency" without a duly issued invoice.</p> <p>An "early phone call" from IATA would have solved the issue.</p>
<p><b>A2/2013-53</b> <b>UK</b></p> <p><b>Oral Hearing</b></p>	<p>UK-LFC had been amended asking for audited instead of only certified FS also for small companies.</p> <p>Agent, as many others in the UK, claimed not being aware of this change and could not afford the extra costs involved being a very small company.</p>	<p>IATA's decision was upheld since this change was a "high profile" issue publicly debated in the UK.</p> <p>Oral hearing lead to a change in the UK-LFC giving small companies an alternative to stay with "certified books" by asking for voluntarily weekly remittance.</p>
<p><b>A2/201-54</b> <b>Senegal</b></p>	<p>Agent suspended for 3 weeks before TAC intervention due to failure to properly upload FS a second time in one year.</p> <p>Still after more than 1 month after reinstatement "struggling" to get all TA's back from Member Airlines.</p>	<p>First "upload problem" was due to a technical error. Second "upload" was rejected due to a missing signature.</p> <p><b>Both were corrected "within minutes" after notification.</b></p> <p>Agent also asked for compensation due to financial losses and huge damage to "reputation".</p> <p>TAC decision: First NoI upheld, second NoI (=NoD) was revoked.</p>
<p><b>A2/2013-55</b> <b>Czech Republic</b></p>	<p>NoI as a result of "short payment" caused by <b>IATA Member Airline default.</b></p> <p>Agent "very upset" because NoI did not specify the amount nor the reason just informing Airlines/market of "not paying the Remittance in full".</p>	<p>IATA Member Airline suspension caused an overpayment-Agent deducted the "overpayment" in the next Remittance period causing a "short payment" prompting the NoI</p> <p>Second ERN sent by IATA <b>did not include</b> (CDM – SPCR) the credit for the "overpayment" and by that, according to the TAC, partly "mislead" to the short payment.</p> <p>Initial ERN was sent via <i>BSPlink</i> <b>2 days AFTER</b> Agent had sent payment order to the bank for that specific remittance period.</p>

		Decision- Nol to be expunged.
<p><b>A2/2013- 56</b> <b>Morocco</b></p> <p>(decided by TAC1 acting as Deputy TAC2)</p>	<p>Agent challenged a NoT, issue due to non-compliance with the deadline provided to upload its FS.</p> <p>Reasons behind the delay: (i) technical difficulties in uploading the FS, situation that was timely notified to IATA; and, (ii) not having received neither the previous Nol nor the NoT, since they were both supposedly sent to an inoperative email address.</p> <p>Agent became aware of both notices when its IATA Codes were terminated and it was suspended from the BSP system.</p>	<p>The evidence provided by both Parties revealed that a miscommunication problem had happened causing the delays in submitting the FS, and, due to erroneous information email addresses never reached the Agent;</p> <p>Therefore,</p> <ul style="list-style-type: none"> <li>- the Agent’s failure to upload its FS in the correct IATA’s portal was not attributable to his intention or control nor can it be considered as an act of negligence or lack of diligence, but rather to an erroneous instruction received from IATA that impeded him to fulfil its obligation in a proper manner and, thus, it is considered excusable (Resolution 818g, Section 13.9).</li> </ul> <p>NoT to be expunged.</p>
<p><b>A2/2013-57</b> <b>Côte d’Ivoire</b></p> <p>(decided by TAC1 acting as Deputy TAC2)</p>	<p>Agent sought a TAC review after being suspended from the BSP based on the erroneous hypothesis of not having uploaded the FS on time.</p> <p>Agent had in fact, and provided proof of it, uploaded on time.</p>	<p>During the course of the review process it became obvious that the Agent’s suspension was not due to the reason originally provided to the Agent, but due to its need to submit a BG in light of the unsatisfactory result of its FS’s evaluation.</p> <p>The situation was clearly explained to the Agent, by IATA and the TAC, since in previous IATA’s communications there had been several mistakes. IATA’s decision was upheld since there was no question about the Agent’s non-compliance with the LFC; however, a new time frame was given to the Agent by the TAC for it to comply.</p>
<p><b>A2/2013- 58</b> <b>Tunisie</b></p> <p>(decided by TAC1 acting as Deputy TAC2)</p>	<p>Agent sought a TAC review after being suspended from the BSP based on the erroneous hypothesis of not having uploaded the FS before deadline.</p> <p>Agent had in fact, and provided proof of it, uploaded on time. Problem was that, by mistake, a page of the FS was scanned twice leaving behind the Balance sheet.</p>	<p>At no time, before reaching the TAC, was an explanation provided by IATA concerning: (i) the erroneous grounds for the NoS; nor (ii) the proper amount of the requested BG; nor (iii) the reasons behind the request to increase the BG that the Agent had already in place. Decision:</p> <ul style="list-style-type: none"> <li>-Agent is to provide the increase of the BG in accordance with the Local Financial Criteria; - Agent was granted by the TAC a new time frame to comply; -Once the BG had been submitted and subject to its evaluation, the Agent must be re-instatement in to the BSP; - The NoS, as well as the Nol must be expunged from Agent’s records.</li> </ul>
<p><b>A2/2013 -59</b> <b>UK</b></p>	<p>UK–LFC had been amended asking for audited instead of only certified FS also for small companies.</p>	<p>Agent had outsourced the accounting and was not aware of the deadline to submit certified accounts before 31 June.</p>



		<p>They were submitted in April to ABTA, and since the “portal to upload” was not active in April the accountant waited as in previous years to upload in July.</p> <p>NoI was removed, Agent informed of the change of the UK- LFC for “coming years”.</p>
<p><b>A2/2013-60</b> <b>Lomé, Togo</b></p> <p>(decided by TAC1 acting as Deputy TAC2)</p>	<p>A NoI and a NoD were served to Agent, leading to its suspension from the BSP, allegedly due to non-payment of BSP Billing Statement.</p> <p>Reason for the delay: Bank’s manual proceedings since the automatic one was unaccessible due to IATA’s old format account.</p> <p>Agent provided a Bank letter stating same.</p>	<p>IATA did not followed correct procedure since the Bank letter provided by Agent should have been considered as reasonable grounds (as per Res. 818g A, paragraph 1.7.4.3 (iii) and (iv)), for IATA to avoid issuing the NoD and the damaging consequences of a Default Action:</p> <ul style="list-style-type: none"> <li>- The NoI and the NoD are to be expunged from the Agent’s records;</li> <li>- The Agent’s temporary re-instatement should become permanent.</li> </ul>
<p><b>A2/2013-61</b> <b>UK</b></p>	<p>UK–LFC had been amended asking for audited instead of certified FS also for small companies.</p> <p>Agent could not afford the cost involved and asked for VR without the need to submit audited books to avoid NoT on its records.</p> <p>IATA insisted on audited FS even after Agent requested VR.</p>	<p>Reso 818g §13 clearly states the right to voluntarily relinquish “at any time” conditioned to “... fulfilment... of all obligations...” towards Member Airlines.</p> <p>The TAC can only see this as “no outstanding debts” and there is no logic in requesting audited books by IATA since an assessment only serves the purpose of evaluating “credit risk for future sale”. NoI was expunged.</p>
<p><b>A2/2013-62</b> <b>Spain</b></p>	<p><b>BG request twice for the same sale.</b></p> <p>Decision originally made in favour of Agent was changed after request to reconsider made by IATA. IATA’s decision was ultimately upheld.</p> <p>TAC urged the Stakeholders to reconsider and clarify Resolution text covering this situation.</p>	<p>Agent’s majority of sales (85-90%) was contributed to two Member Airlines also asking for BG “in full” to allow this sale.</p> <p><b>AS NEW AGENT</b>, the Agent was requested by IATA to provide financial security (BG) covering “<b>sales at risk</b>” disregarding of any individual Member Airlines’ request for a BG.</p> <p>Original TAC Decision: ordered IATA to exclude this specific sale when calculating “sales at risk” since <b>it did not pose any risk</b> for the “concerned Airlines”. This part was changed after request from IATA and IATA’s view was upheld.</p> <p>The change was made mainly considering the specific wording in the Resolution according to which a BG should cover “<b>net BSP sales</b>”, <b>but also acknowledging the right and obligation of policymaking by the Stakeholders.</b></p> <p>The view of this TAC regarding “BG twice for the same sale” has been clearly expressed directly to</p>

		the Stakeholders.
<b>A2/2013-63</b> <b>Israel</b>	<p>IATA requested a BG claiming Agent not meeting IL-LFC covering its 2012 financial year.</p> <p>Agent asked for review disputing IATA's IGFA's interpretation of the IL-LFC.</p> <p><b>IR was (once again) denied by IATA</b> and Agent suspended during the very extensive review process (8 plus months).</p> <p>– As earlier stated, this effectively makes a TAC IR Decision a legal impossibility or a non-sense situation when IATA insists to request a BG from an Agent as a condition to grant an IR <b>in cases when precisely the BG itself is the one subject matter of the review.</b></p>	<p>The TACs normally never question the evaluation done by IGFA. And normally no review would have been allowed by this TAC.</p> <p>In this case, Agent's Auditor, IL- Agents Association <b>and IATA's ex IGFA</b> had accepted/interpreted the IL-LFC in a way where no BG should have been requested.</p> <p>Hence, a review was allowed and IR rendered in order to allow time for the review to take place without causing further damage to the Agent.</p> <p>An "independent" third party view was not found conclusive enough by the TAC, due to the "limited budget" allowed to make the independent assessment.</p> <p><b>IATA's Decision for a BG was upheld</b>, awaiting the "interpretation" done by the IL- APJC ordered by the TAC.</p> <p>Meanwhile, IATA served a NoT to Agent for not submitting the requested BG.</p> <p>Before the time for Termination the Agent provided a statement/Minutes from the IL-FAG confirming the Agent's view so the NoT was ordered to be expunged.</p> <p>IATA invoked PCoF and Agent was not reinstated. Agent by then provided a new set of FS covering 2013 and met the "new" interpretation of the IL-LFC and was reinstated.</p>
<b>A2/2013-64</b> <b>Ireland</b>	<p>UK-LFC had been amended asking for audited instead of only certified FS also for small companies.</p> <p>Agent, as many others in the UK, claimed not being aware of this change and asked for extended time to provide audited books.</p>	<p>The preparation of accounts were delayed due to the death of the Agent's accountant .</p> <p>Reminder emails from IATA where "not received" and Agent suggests: "when fundamental changes are imposed ... proof of dispatch to management can be achieved... as done by change <i>to ATOL reform ..to E-sign to confirm receipt and acceptance</i>".</p> <p>TAC found the circumstances as "human excusable error" and allowed 30 <b>Business</b> Days to comply with IATA's requests.</p>
<b>A2/2014-01</b> <b>UK</b>	<p>Issue of definition/meaning of "latest financial year covering 12 months".</p> <p>Agent was terminated for submitting "financial statements not covering 12</p>	<p>Agent (family business for 40 years) had undergone ownership changes due to "generational changes" (Grandparents-to-Parents-to-Children) and was financially dormant</p>

	<p>month trading” as requested by UK-LFC.</p> <p>Agent insisted on an oral hearing stating: <i>“It is important for IATA to face people that their decisions affect to help them to realise the consequences of their decisions”.</i></p> <p>Oral hearing was denied by the TAC.</p>	<p>for 4 months.</p> <p>As a result -when requested by IATA to submit Audited Accounts for the “<b>latest</b> financial year <b>covering 12 month</b>”- the Agent, <b>in line with Local Law</b>, only provided the most recent audited books covering only 8 months.</p> <p>TAC decided it was more “beneficial” for Member Airlines, also in line with the LFC’s intention, to make the evaluation on the “most recent” 8 months, (in line with Local Law) instead of “latest financial year covering 12 month”.</p> <p>Agent was reinstated.</p>
<p><b>A2/2014-02</b></p> <p><b>UK</b></p>	<p>Nol for not submitting FS “for 12 month” as mandated in UK-LFC..</p> <p>Agent had changed fiscal year covering 18 months trading in line with UK-law, but this scenario is <b>not “covered” in the UK-LFC.</b></p> <p>Agent was <b>defaulted</b> because they had not challenged a previous Nol in due time, not knowing about the possibility to dispute that Nol.</p>	<p>Both the Agent and their Mother Company had very good financial standings.</p> <p>A “miscommunication” between the Agent and IATA had led to the first Nol resulting in a large (€ 360k) BG and in weekly remittance.</p> <p>Agent had changed fiscal year covering 18 months and could not present “12 months” audited accounts at the required time.</p> <p>Agent was temporarily reinstated provided they presented the audited accounts for 18 months.</p>
<p><b>A2/2014-03</b></p> <p><b>UK</b></p>	<p>UK-LFC had been amended asking for audited instead of certified FS also for small companies.</p>	<p>IATA’s Decision was upheld, giving the Agent the possibility to “prematurely” adopt the upcoming (June 2014) changes in the UK-LFC and by that getting reinstated without the need to supply audited FS.</p>
<p><b>A2/2014-04</b></p> <p><b>France</b></p> <p>(decided by TAC1 acting as Deputy TAC2)</p>	<p>Agent was served a NoD, due to an accumulation of Irregularities, leading to its suspension from the BSP.</p> <p>Facts of the case: 1<sup>st</sup> Nol was due to a short remittance that was settled immediately upon receipt of the Nol. 2<sup>nd</sup> Nol was due to a short payment of € 100 out of a total remittance of € 33,470.55. The shortfall was covered by Agent even BEFORE receiving the reinstatement requirements’ notice from IATA = Agent fully complied with the time frame given by the Nol.</p>	<p>Resolution 818g states in Section 2.6 &lt;&lt;in the event an Agent fails to comply with any of the requirements ... listed in the Passenger Sales Agency Rules ... suspension action may be taken in accordance with Section 13 of these rules&gt;&gt;, and, Res. 818g in the referred Section 13 Paragraph 13.3 not only establishes a course of action when an Agent is to be suspended from the BSP but also determines a specific time frame for the sanction (suspension) to take place, given the Agent a margin &lt;&lt;no earlier than <b>15 days</b> after the date of the notice&gt;&gt; to explain its situation and/or to comply with the missing requirement; Therefore, if we apply the said provisions to this case, <b>BEFORE SUSPENDING</b> the Agent IATA should have given time for the Agent to demonstrate that it had actually paid the <b>€ 100</b>, avoiding all the inconveniences and the damaging consequences of a suspension for the amount of € 100 out of a remittance of €</p>

		<p>33,470.55.</p> <p>Considering that at no time were Member Airlines' monies at risk, since an error in calculation of € 100 out of a total remittance of € 33,470.55 -immediately settled- <b>cannot reasonably be considered as a "risk"</b>, IATA had indeed the alternative of taking a different course of action other than the suspension (by applying Res. 818g, Attachment "A", paragraph 1.7.5.2 -as it did-), but by applying Res. 818g, Section 13.3, where <b>a reprimand</b> could have been served on the Agent, encouraging it to be more thorough when calculating the amount to be settled without the need for suspending it from the BSP and avoiding the rest of the damaging Default actions.</p> <p>-NoD must be voided;</p> <p>-Agent must be reinstated in to the BSP system without the need of having to provide any other BG (different from the valid one that it has already in place), provided all outstanding monies would have been settled at the time of the reinstatement.</p>
<p><b>A2/2014-05</b></p> <p><b>Spain</b></p> <p>(Minutes – Oral Hearing)</p>	<p>Oral Hearing requested by 5 Spanish Agents.</p> <p>Since the same situation covering a total of 66 Spanish Agents , plus an “unidentified” number of Agents throughout Area 2 having received Nols for the same reason, it is this TAC’s understanding that IATA has/will expunge these Nols not only from Agents having requested the Oral Hearing but from all concerned Agents.</p>	<p>5 Agents had requested the Oral Hearing having “misunderstood” the New Billing Calendar for 2014.</p> <p>Core issue was that IATA had introduced a “new” column also displaying Airlines Settlement Date next to Agents’ Remittance Date.</p> <p>The huge amount of Agents “misunderstanding” this new format made IATA <b>-on its own initiative-</b> to withdraw the Nols for these 5 Agents declaring it as “administrative error” in line with the upcoming Resolution amendment covering “minor administrative errors”.</p>
<p><b>A2/2014-06</b></p> <p><b>Tunisie</b></p> <p>(decided by TAC1 acting as Deputy TAC2)</p>	<p>NoT was issued, allegedly due to failure of having &lt;&lt;effected settlement of amounts due in accordance&gt;&gt; with the options set out in the NoD.</p> <p>Agent claimed –and proved- that it had indeed complied with the conditions set out in the NoD before deadline.</p>	<p>Once the facts/proofs of the case were brought to the attention of IATA by the TAC; IATA, acting on its own initiative, reverted the actions unlawfully taken against Agent and reinstated it in to the BSP.</p> <p>NoT was voided and expunged from Agent’s records.</p>
<p><b>A2/2014-07</b></p> <p><b>Côte d’Ivoire</b></p>	<p>Agent contested the technical default inflicted on it and its suspension from the BSP system allegedly due to a lack</p>	<p>Proven facts of the case not contradicted by either Party:</p> <p>-IATA was reluctant to apply the provision of</p>

<p>(decided by TAC1 acting as deputy TAC2)</p>	<p>of payment by the due date.</p> <p>Agent claimed and proved having settled in accordance with the BSP calendar for the Ivory Coast.</p> <p>The divergence with IATA's was regarding the hours' difference between the actual time the deposit was recorded vs. the time recorded as receipt of the funds, due to Bank internal proceedings in that country.</p> <p>Agent provided Bank letter stating same.</p>	<p><i>bona fide</i> Bank error;</p> <ul style="list-style-type: none"> <li>- Agent had indeed &lt;&lt;sufficient available funds on Remittance Date in the stipulated bank account&gt;&gt;;</li> <li>- Bank letter was not only signed by the Manager but also by the Director of Operations, their printed names were missing though. Situation that could have been easily solved by a simple request, without the need of disconnecting the Agent from BSP, system inflicting such severe consequences;</li> <li>-Letter does not indicate the &lt;&lt;nature of the error&gt;&gt; because no error had occurred in this case; the delay was due to an internal standard procedure at the institution itself, in which the Agent had no intervention or control whatsoever. The letter though did state the &lt;&lt;reason for the delay in remittance&gt;&gt;, which is the other requirement enshrined in the referred numeral.</li> </ul> <p>Conclusion: TAC decided to apply Section 13.9 of Res, 818g, therefore, NoI and NoD must be rescinded and expunged from Agent's records; - Agent must be reinstated in to the BSP system without any further delay or requirement, and its <i>status quo</i> restored as of prior suspension.</p>
<p><b>A2/ 2014 -08</b></p> <p><b>Nigeria</b></p> <p>(Minutes Oral Hearing)</p>	<p>Agent Terminated: "failed to comply with Change of Ownership ("CoO") duly reported to IATA".</p> <p>CoO took place in 1995</p>	<p>Agent defaulted due to "overdue Remittance" which was revoked after Agent provided evidence of <i>Bona Fide</i> Bank Error.</p> <p>When Current Agency Status was submitted IATA noticed a change in ownership which had not been duly reported/filed. Agent could at this time not substantiate that CoO had been duly reported.</p> <p>During the Oral Hearing it was revealed that Agent had notified about CoO in 1995. IATA had not received this letter or "missed" to update its files.</p> <p>Agent produced a signed copy of the letter, dated 1995 addressed to IATA. TAC gave Agent the benefit of the doubt of having actually sent it.</p> <p>CoO could also be substantiated when BSP was implemented in 2009. IATA at that occasion did not notice the CoO and "missed" to update the files or ask Agent for clarification.</p> <p>Agent was reinstated after fulfilling all Reinstatement requirements.</p>

<p><b>A2/2014-09</b>  <b>UK/Germany/  Greece</b></p> <p>Minutes of Oral  Hearing</p>	<p>Agent with offices in Greece, Germany and the UK was suspended/ defaulted due to dishonoured Remittance.</p> <p>Request for IR denied.</p>	<p>At the Oral Hearing, held in MAD, the Parties agreed to keep it “informal” and “off the record”.</p>
<p><b>A2/2014-10</b>  <b>UK/Germany/  Greece</b></p>	<p>Agent terminated.</p> <p>Agent requested a <i>de novo</i> review by also asking for IR.</p>	<p><i>De novo</i> review allowed. No new factual arguments were presented. IATA's Decision was upheld.</p>

Section C

**TRAVEL AGENCY COMMISSIONER AREA 3  
REVIEW DECISIONS – SEPTEMBER 2013 – AUGUST 2014**

The total number of cases dealt with during this period was 129.

**General**

Due to the number of decisions rendered, 75, this report condenses these into categories as follows:

- A. Additional time granted in order to submit financial statements = 31  
These emanated from the following countries:-

Australia - 16  
Malaysia - 4  
Pakistan - 3  
India - 2  
New Zealand - 2  
Singapore - 2  
Myanmar - 1  
New Caledonia - 1

- B. Additional time granted in order to submit a financial security = 18  
These emanated from the following countries:-

India - 8  
Australia - 5  
Hong Kong SAR - 2  
Malaysia - 1  
Pakistan - 1  
Papua New Guinea - 1

- C. Decisions involving re-assessment of financial statements by the IATA Global Financial Assessor = 6  
These emanated from the following countries:-

Australia - 5  
New Zealand - 1

- D. This leaves 20 decisions to be summarised as follows:-

The reviews in Area 3 were all conducted based on the documentary evidence alone.

**NOTE:**

Work handled by TAC1 acting in her capacity of Deputy TAC3:

The total number of cases dealt by her during this period was **27**.

Out of that number the posted decisions were: 13

And are summarised below respecting the general chronological order in which they were rendered.

<u>Time &amp; Place</u>	<u>Summary</u>	<u>Decision</u>
<b>10 October</b>	A NoI was served to Agent due to a return	NoI must be removed from Agent's

<u>Time &amp; Place</u>	<u>Summary</u>	<u>Decision</u>
<p><b>2014</b> Hisar, India</p> <p>(decided by TAC1 acting as Deputy TAC3)</p>	<p>of the &lt;&lt;remittance cheque&gt;&gt;. Upon notice of the bank's rejection (reason provided &lt;&lt;drawer signature not as per mandate&gt;&gt;), payment was immediately done by Agent.</p>	<p>records, based on <i>bona fide</i> bank error's rules:  (i)The analysis made by the Bank of the cheque's signatures and its delay in issuing the letter were events beyond the Agent's reasonable control and, thus, it should not be liable for them, let alone punished; and,  (ii) Agent acted diligently not only by (a) paying the due remittance amount upon been aware of the Bank's rejection, but also in (b) clarifying the issue with IATA by getting back to its Bank and obtaining the letter reflective of the situation in their end.</p>
<p><b>24 October 2013</b> Peshawar, Pakistan</p>	<p>The Agent was terminated due to having accumulated 4 Instances of Irregularity. The Agent, having repaid a substantial part of the debt, fell silent when IATA requested that it enter into a repayment agreement and as a consequence was terminated. In its explanation the Agent advised that the brother of one of its Directors had been killed in a terrorist attack which caused great mental shock and the Agency closed for a period. On re-opening the Agent became aware of its additional outstandings but by the time clarity on what these represented, termination action had been taken.</p>	<p>The case was dealt with under the 'Force Majeure' provision of 13.9 of Resolution 818g and the Agent was to be re-instated subject to paying all outstanding charges, having a financial review conducted by IATA who would also assess the adequacy of the financial security in place with the Agent fulfilling any adjustment required.</p>
<p><b>25 October 2013</b> Karachi, Pakistan</p> <p>(decided by TAC1 acting as Deputy TAC3)</p>	<p>Agent challenged IATA's termination action and NoT, allegedly being imposed despite having paid 50% of the outstanding amount due to the BSP; and, despite having submitted the requested BG before the due date.  The payment had been made through the Travel Agent Association of Pakistan.  When terminated Agent was waiting instructions/draft of the Repayment Schedule, as indicated by IATA.</p>	<p>Payment should have been made directly to IATA and not through Travel Agency Association; however, IATA did receive the funds on time.  NoT must be voided and the Agent's <i>status quo</i> before termination should be re-established.  IATA is to send to the Agent the terms of the Repayment Agreement, as accepted by both Parties.</p>
<p><b>30 October 2013</b> Islamabad, Pakistan</p> <p>(decided by</p>	<p>Agent was served a NoD, supposedly due to non-payment of the Billing Statement.  Agent proved that the "unpaid" amount corresponded to sales made by credit card and duly reported to the Member Airline as per Res. 890; having received the approval &lt;&lt;for the amount to be billed ...</p>	<p>Based on the evidence on file, TAC concluded:  -Member Airline did not follow proper procedure (Res. 890, Par.2.2.2(e)); it unfulfilled its obligation of issuing an ADM against Agent for the disputed amount derived from the credit card transactions (mandated in Paragraphs 2.2.2(b) and 3.3);</p>



<u>Time &amp; Place</u>	<u>Summary</u>	<u>Decision</u>
TAC1 acting as Deputy TAC3)	<p>through the established procedure via the GDS&gt;&gt;.</p> <p>Airline had refused to provide evidence supporting its allegation and had insisted for Agent to pay through the BSP.</p> <p>No ADMs were issued by the Airline to the Agent prior to the issuance of the BSP Report. Without the ADMs Agent claimed being unable to &lt;&lt;raise the dispute&gt;&gt;.</p>	<p>-Member Airline did not issue the mandated ADMs simply because it was already too late to do it (time frame of 90 days -Res. 850m, Paragraph 3.1- had elapsed); therefore,</p> <p>-by including that amount in to the BSP Report IATA failed to comply with the correct procedure;</p> <p>-NoI and NoD must be expunged from the Agent's record;</p> <p>-Considering that Agent has provided a BG, in accordance with the LFC, must be reinstated in to the BSP system at no delay.</p>
<p><b>27 November 2013</b> Surat, India</p> <p>(decided by TAC1 acting as Deputy TAC3)</p>	<p>NoT was supposedly served due to non-submission of FS on time.</p> <p>Agent proved having alerted IATA-Mumbai in various occasions about the technical difficulties encountered when uploading its FS, even a month prior the due date.</p> <p>Agent was never provided with an answer, but was served with subsequent NoIs that did not reach him either.</p>	<p>-IATA was unable to demonstrate actual proof of dispatch of neither the NoI nor the NoT (Res. 818g Paragraph 1.9.1), hence, both Notices should be considered void and thus non-existent and must be expunged from the Agent's records.</p> <p>-Considering the Agent's obligation to ensure that its FS are duly submitted within the given time frame, the NoT should be considered as a NoI (the 1<sup>st</sup> one in the Agent's records);</p> <p>-Agent is to submit its FS at no delay;</p> <p>-Agent's reinstatement must take place immediately.</p>
<p><b>28 November 2013</b> Dhaka, Bangladesh</p> <p>(decided by TAC1 acting as Deputy TAC3)</p>	<p>A NoT was issued supposedly due to an unauthorised change of ownership.</p> <p>Agent claimed and proved not having undertaken any change of ownership, but being the victim of misrepresentations made by one of his employees while on hajj trip and seriously ill after that.</p>	<p>- IATA has acted in accordance with the applicable Resolutions based on the information received by the employee who misrepresented the Agent;</p> <p>-Considering that during the course of this review process it was revealed and proved that no change of ownership had occurred, all the Notices issued in connection with that matter must be considered null and voided documents;</p> <p>-Agent's IATA Accreditation and its reinstatement in to the BSP system must be undertaken at no delay;</p> <p>-Agent is to pay any administrative fee that these undertakings might generate to IATA.</p>
<p><b>27 December 2013</b> Gujranwala,</p>	<p>Agent challenged the NoT received, due to non-payment of the second instalment of the Repayment Agreement.</p>	<p>- NoT shall be expunged and removed from the Agent's records;</p> <p>-The Agent is to honour not only the</p>

<u>Time &amp; Place</u>	<u>Summary</u>	<u>Decision</u>
Pakistan  (decided by TAC1 acting as Deputy TAC3)	Agent requested a reconsideration of its PSAA's termination arguing –and proving– having had a car accident and having been hospitalised as a consequence of it, circumstances that impeded him from honouring the instalment on time.	remaining balance of the last instalment, but all outstanding monies due to Member Airlines as agreed with IATA; - Once the conditions for reinstatement would have been met, Agent is to be reinstated in to the BSP system at no delay.
<b>31 December 2013</b> Peshawar, Pakistan	The Applicant was disapproved for IATA accreditation based on 2.1.6 of Resolution 818g which reads in part “-nor have a name the same as that of a Member of IATA, or of IATA.” The Applicant was named “..... Aviation and Tours” which IATA cited as being the same as a member airline “..... Airways.” The applicant described a number of IATA Agents whose names were similar to those of IATA Member Airlines. It had used its name for many years and was aware of its responsibilities and “did not intend to get involved in any kind of deceptive market practices.”	The word “.....” is generic, the Applicant’s branding is different to that of the IATA Member Airline and in the Pocket Oxford Dictionary the word “same” is defined as “identical, not different.” For these reasons IATA was instructed not to use 2.1.6 of Resolution 818g as the cause for disapproving the Applicant.
<b>14 January 2014</b> Peshawar, Pakistan  (decided by TAC1 acting as Deputy TAC3)	Agent sought the removal of the NoT issued on the grounds of failure <<to settle outstanding amounts due to airlines>>.  The termination was not going to take effect if prior to the indicated date Agent had (i) <<settle all outstanding amounts>>; or, (ii) alternatively reach an agreement with IATA paying<<at least 50% of the outstanding amount and agree a firm schedule or repayment of the balance by instalments>> (Res. 818g “A”, Sec. 2.2.1).	Agent claimed being in the middle of the negotiation process with IATA when suddenly received the NoT. Agent had reiterated in several occasions its willingness to fulfil its financial obligations.  TAC noticed that it was never mentioned to Agent any possibility of a repayment schedule as established in Res. 818g, “A”, Sec. <b>2.2.2</b> , resulting it in a miscommunication problem that impeded the Parties to reach the desired agreement before the NoT was issued; hence: - NoT shall be annulled and a repayment schedule in accordance with Res. 818g, “A”, Sub-Section <b>2.2.2</b> should be negotiated between the Parties at no delay; - Once the repayment schedule would have been agreed upon and signed by both Parties, provided Agent’s financial standing will comply with the LFC, its reinstatement in to the BSP system should be promptly undertaken.
<b>17 January 2014</b> Hong Kong, SAR	The Agent had accumulated 4 Instances of Irregularity within a 12 month period and was declared in default. This situation had	The overly powerful filtering system appears to have been the cause of the second set of Irregularities and the system

<u>Time &amp; Place</u>	<u>Summary</u>	<u>Decision</u>
	<p>been created by the Agent missing a BSP settlement date in September 2013 and failing to submit its financial statements by the due date. The Agent explained its system had been infected by malicious viruses so to prevent that a more powerful filtering software had been installed and this may have classified IATAs messages as adware and side-lined them. The Agent stated that it was not in their interests to lose their ticketing authority for the sake of not submitting its financial statements.</p>	<p>has now been adjusted. As stated, the Agent would not knowingly have jeopardised its ticket issuing capability for the sake of not uploading its accounts. The second set of Irregularities was to be expunged.</p>
<p><b>12 February 2014</b>  Urumqi,  PR China</p>	<p>The Agent had accumulated 4 Instances of Irregularity within a 12 month period. The first 2 had been received for a late BSP payment resulting from ignorance of a staff member of BSP procedures. An Accountant had then been employed but had suffered cardiac arrest at a critical time and a second set of Irregularities had been incurred and the Agent placed in default. Funds were set aside for the billing but the unfortunate incident had prevented payment on the due date. A Death Certificate was provided as evidence.</p>	<p>The unfortunate incident was beyond the reasonable control of the Agent and the provisions of 13.9 of Resolution 818g involving 'Force Majeure' were applied resulting in the second set of Irregularities being expunged.</p>
<p><b>12 February 2014</b>  Victoria,  Australia</p>	<p>IATA sought a TAC review of the Agent under the 'Prejudiced Collection of Funds' provision of Attach A to Resolution 818g. The trigger for this had been an enquiry from an Agency staff member to IATA asking "was there some relief for a period of time in paying this debt to Airline X via BSP." The Agent stressed the fact that the enquiry was not a suggestion that it was unable to settle its BSP obligations. It had a substantial financial security in place, had access to an unused line of credit and had recorded a sound profit in its latest accounts. It had always settled its BSP billings.</p>	<p>In trying to be fair to both parties recognition has to be taken of the disruption to business faced by the Agent on the one hand and IATA's responsibility of protecting its Members' funds on the other. The balance required to arrive at an equitable situation has to veer on the side of caution while not placing an unnecessary burden on the Agent. The fact that the Agent holds the moneys of the Principal for a period cannot be ignored. The TAC is not an accountant or credit risk assessor and must rely on the expertise of others in reaching a conclusion.</p> <p>The Agent was to be re-instated subject to all BSP sales to 12/2/14 being settled and the IATA Global Assessor be satisfied that credit under the standard BSP – Australia settlement schedule can be granted. Post-dispatch of the electronic decision IATA advised that the Agent had passed all tests and a further assessment was not</p>

<u>Time &amp; Place</u>	<u>Summary</u>	<u>Decision</u>
		required.
<p><b>3 March 2014</b> Peshawar, Pakistan</p> <p>(decided by TAC1 acting as Deputy TAC3)</p>	<p>A NoT, with immediate effect, was served to Agent due to failure &lt;&lt;to settle all outstanding amounts due to airlines&gt;&gt;.</p> <p>Agent claimed and proved having contacted IATA to obtain &lt;&lt;the details of total payment&gt;&gt;, considering that its BSP/link was not available (Agent being disconnected from the BSP could NOT have access to that link), Agent was incapable of knowing the total outstanding and &lt;&lt;pay 50% and come in repayment schedule&gt;&gt;. No answer was received from IATA.</p>	<p>-Considering the Agent’s request of the needed information to settle the due amount within the given time frame; considering the lack of IATA’s (Customer Service Center) timely answer to this key information unobtainable by the Agent by other means, the NoT served against it should be expunged from its records; and,  -A Repayment Agreement is to be discussed and signed by the Parties, giving the Agent ALSO the alternative stated in Sub-Section 2.2.2 of Res. 818g “A”, where the possibility of an &lt;&lt;alternative repayment schedule&gt;&gt; is stated.</p>
<p><b>4 March 2014</b> Gurgaon, India</p> <p>(decided by TAC1 acting as Deputy TAC3)</p> <p>Conference call was held with the Parties.</p>	<p>After voluntarily relinquishing its accreditation, both Parties sought a TAC review in order for this Office to determine whether or not it was feasible, in accordance with the applicable Resolutions, the Agent’s request to, despite having its ticketing capacities withdrawn from BSP, to have access to it only for the purpose of efficiently processing refunds, instead of having to contact each individual Member Airline directly.</p> <p>Agent needed its BG back by a certain date and was committed to honour in full any outstanding since it absolutely wanted to preserve a clean record after having traded for more than 20 years as Accredited Agent.</p>	<p>(i) After verification with experts in the field it was clear that GDS’ systems have the ticketing issuing feature, also called “right”, separately and distinctively set it up from the refunds’ processing feature or right. One is absolutely independent from the other. One can work and be accessible by GDS’ users while the other can remain inactive or even blocked from those same users without having any impact on one another;  (ii) There is no provision under the current stage of the applicable Resolutions that forbids accessing the BSP system for the sole purpose of processing refunds, while the ticketing capabilities would had been withdrawn from an Agent, based on its own voluntary relinquishment situation;  (iii) Agent is to be allowed to process refunds through GDS using the BSP system without having access to its ticketing capacities.</p>
<p><b>12 March 2014</b> Gurgaon, India</p> <p>(decided by TAC1 acting as Deputy TAC3)</p> <p>Conference call was held with the Parties.</p>	<p>Agent and IATA sought a TAC review aimed at determining whether or not an Agent could retrieve its voluntarily relinquishment and become an active Agent again, with the main purpose of becoming an “active” Agent as per the system’s regulations, and, as such, being able to process refunds and access to the ACM/ADM capabilities to which Agent has been unable to despite IATA’s instructions to the GDS systems, as per decision of this Office rendered on March 4th, 2014.</p>	<p>-The relinquishment of an IATA accreditation, as per the current stage of the applicable Resolutions (Res. 818g Sec. 13.1) , is an <b>Agent's right</b> and as such can be exercise at its sole discretion;  - Agent is to be reinstated in to the BSP system at no delay; no additional conditions or requirements would be requested from Agent in order for it to have full access to all BSP system features and rights once its reinstatement would have been implemented.</p>

<u>Time &amp; Place</u>	<u>Summary</u>	<u>Decision</u>
<b>19 March 2014</b> NSW, Australia	The Agent failed the Parent Company “minimum paid up capital” criteria during the Annual Financial Review process, the Parent Company had been in business for 30 years, had equity in excess of AUD30m but had only AUD205.00 as paid up capital rather than the AUD25,000 required under the Criteria. This was the first occasion on which this was an issue. IATA required the Agent to submit a financial security of AUD 25,000.	An “adverse impact on the subsidiary” could not be identified by IATA. Common sense would dictate that, in the circumstances, an AUD25k paid up capital would make no practical difference to the Agent. That criteria completely ignores the sound financial health of the Parent Company. The requirement for the Agent to submit an AUD 25,000 financial security was removed.
<b>20 March 2014</b> Lahore, Pakistan	The Agent was issued with 2 Instances of Irregularity due to its BSP settlement cheque being declared invalid as the amount in words differed subtly from the amount in numbers. The Agent took immediate steps to pay the amount due. Most airlines withdrew their ticketing authority when the Irregularity Notice was circulated and some re-instated same on a limited basis when the cause of the issue was explained to them.	There were sufficient funds in the Agent’s account to cover the BSP billing. Clause 13.9 (ii) of Resolution 818g “Force Majeure’ – “is not the result of Agent’s lack of reasonable diligence” – was used as the basis for having the 2 Instances of Irregularity expunged.
<b>9 April 2014</b> Ahmedabad, India  (decided by TAC1 acting as Deputy TAC3)	Agent sought a TAC review once terminated, due to <<non-submission of financial security>> before deadline.  Agent has not contested the grounds of the NoT, it has rather strongly stated its willingness to readdress the situation in order not to lose its IATA Accreditation.	Based on both Parties’ submissions and considering IATA’s generous offer to the Agent in regards to preserving the same IATA code, TAC decided: -Agent has the right to reapply for its IATA Accreditation and be reinstated in to the BSP system, conditioned to: (i) Agent has to submit on time a BG following the requested terms, and, (ii) If Agent would like to be assigned with the same IATA numeric code as it had prior to its termination, it would have to pay an administrative fee to be determined by IATA.
<b>10 April 2014</b> Mumbai, India  (decided by TAC1 acting as Deputy TAC3)	Agent challenged its PSAA’s termination due to failure <<to settle all outstanding amounts due to airlines>>.  Agent’s claims: having paid all amounts due (it provided proof of it) and has explained that the belated payment was due to some fraudulent booking made by a third Agent, using the Applicant's IATA code and subsequently dishonouring the settlement.	-Judging from the evidence on file, TAC was satisfied with the fact that the Agent was indeed unaware of the fraudulent behaviour of the third Agent, who was acting on its behalf without having been authorised to do so; - According to that same evidence, IATA has respected the proper procedure to follow in this case; -Agent has the right to reapply for its IATA Accreditation and be reinstated in to the BSP system, process that will be undertaken in a shorten period of time

<u>Time &amp; Place</u>	<u>Summary</u>	<u>Decision</u>
		than it would normally be the process of accreditation as a new Applicant, provided all the requirements would have been met.
<b>24 April 2014</b> Mumbai, India	The circumstances were the same as the previous case except that the cause was the drawing of the cheque on a closed account.	The same clause of Resolution 818g was used as the justification for expunging the 2 Instances of Irregularity.
<b>1 May 2014</b> Lahore, Pakistan	The Agent was terminated due to a shareholder also being a partner in an Agency that had defaulted and still had outstanding debts. The Agent stated that it had no affiliation with the defaulted Agent, had a clean BSP settlement record and the offending Director had resigned. A legal separation process was underway with the Security Exchange Commission.	In view of the Agent's clean record IATA was to re-instate the Agent once it had sighted documentation that convinced it that a breach of 2.1.8 of Resolution 818g was no longer applicable.
<b>16 May 2014</b> Mumbai, India  (decided by TAC1 acting as Deputy TAC3)	Agent sought the removal of a Nol served <<due to cheque return>>, causing <<the non-payment>>. Agent claims it was due to a <<technical error>> (inadvertently dated the cheque 2016), that was <u>immediately corrected</u> once becoming aware of it by himself, even before receiving IATA's notice.  It was proved, and even acknowledged by IATA, that Agent had sufficient funds in its account as to cover the amount due by the due date.	TAC agreed with IATA in the sense that the situation at hand does not qualify as a <i>Bona Fide</i> Bank Error, but rather in to Paragraph 13.9 of Resolution 818g; therefore, -Nol must be expunged and, thus, removed from the Agent's records.
<b>19 May 2014</b> Hyderabad, India	The Agent was terminated for failing to settle USD138.00 together with non-submission of a financial security by the due date. The Agent had repeatedly sought clarity from IATA on what the USD138.00 billing was for to no avail. The Agent had been sent an option letter for inclusion in a default protection insurance scheme by IATA which later on was determined to be invalid as the scheme had closed.	The Agent's stubbornness in not settling the USD138.00 before being given justification for the billing was foolish. It was an ADM. There was sufficient confusion over the default protection insurance scheme inclusion for the Agent to be given the benefit of the doubt. The Agent was given 30 days to submit a financial security. During the course of the case the USD138.00 was paid. Once finalised the Agent was to be reinstated.
<b>27 May 2014</b> Tokyo, Japan	The Agent incurred 2 Instances of Irregularity for failing to include the Cover Letter with its financial statements for the Annual Financial Review. The Agent felt that this was a harsh punishment for a clerical oversight and requested that the	The Agent had no intention of being obstructive and IATA had given adequate notice of its requirements. It was an unfortunate combination of new staff plus the 'Golden Week' break that had created the issue.

<u>Time &amp; Place</u>	<u>Summary</u>	<u>Decision</u>
	Irregularities be removed. It had since submitted the required documentation.	Concurrence with the Agent's opinion that the 'punishment did not fit the crime' saw the 2 Instances of Irregularity replaced by a Reprimand as provided for in 13.4.3 of Resolution 818g.
<b>20 June 2014</b> Hong Kong, SAR	The Agent was issued with 2 Instances of Irregularity for missing the submission date for a bank guarantee by 1 day. The Agent had submitted its Bank's format of bank guarantee to IATA which was rejected as it did not match the IATA pro forma. The Agent's Bank would not change its format so it was sent to IATA's Legal Department for evaluation. It was ultimately accepted but the submission deadline had passed.	This was one of a number of cases where the bank guarantee format was rejected by IATA. There is no Resolution mandate for IATA's pro forma and if a bank guarantee document includes all the critical clauses then it must be accepted. The 2 Instances of Irregularity were to be expunged as the time taken by IATA Legal to evaluate the bank document should have been taken into consideration.
<b>27 June 2014</b> Dhaka, Bangladesh	The Agent, having gone into default, was terminated for failing to settle all outstanding amounts due to Airlines. It paid a portion of the debt during 1 month but this did not represent the 50% deposit required under 2.2.1 of Attach A to Resolution 818g. Post termination the Agent made 6 further payments over a 7 day period and the Agent undertook to pay the remaining outstanding in 3 instalments ending on 10 August 2014. Meantime IATA had claimed against the Agent's financial security in excess of the amount owed and an adjustment was underway.	The Agent had been caught out by its credit client arrangements. However its behaviour in making payments and committing to same was impressive. The Agent was a prime candidate for the customised repayment agreement described in 2.2.2 of Attach A to Resolution 818g but as this required agreement from debtor Airlines IATA felt that it was too complex. If that process is flawed then it needs examination by the PAPGJC to make it more user friendly. The Agent was to be reinstated subject to obtaining a satisfactory financial review and submitting a financial security amount to be determined by IATA.
<b>15 July 2014</b> Islamabad, Pakistan	An interim decision was issued on 3 July 2014 reinstating the Agent temporarily while the issue of 23 disputed ADMs being included in a BSP billing was examined in depth. This action was not objected to by IATA. An Airline issued 23 obsolete ADMs involving credit card transactions on the grounds that they had not been paid by the credit card companies. The Airline has not responded to any of the Agent's queries.	This Agent and this Airline were involved in a virtually identical case ruled upon by the Deputy TAC3 last year. The 23 ADMs should have been identified as 'disputed' and side-lined from BSP billings. They should also have been notified to the Agent by the Airline. Neither of these actions took place. The Agent advises that as the Accountant was absent and there had been no sales that period the BSP billing had not been checked. The Airline's behaviour in stone-walling the Agent is unacceptable. The Agent's position is credible and the Airline's attempt to recover funds from the Agent is out of order. The 23 ADMs are to be removed from the BSP billing and the Agent's ticketing

<u>Time &amp; Place</u>	<u>Summary</u>	<u>Decision</u>
		authority be ongoing.
<b>21 July 2014</b> Dhaka, Bangladesh	The Agent was placed in default for having accumulated 4 Instances of Irregularity within a 12 month period. The Agent explained that it has missed settling a BSP billing as its staff member had arrived at its bank 15 minutes after it had closed early due to Ramadan. The following day was a bank holiday so settlement could not be made until 2 July 2014. IATA's response was that the Agent should have been aware of the bank's earlier closing time as this would not have been a new event. The Agent stressed that its failing was unintentional and that accreditation was vital to its business.	Initially the inclination was to dismiss the request for review for lack of credibility viz the Agent should have been aware of the bank's earlier closing due to Ramadan and the Agent should not have left payment to the last minute. However, IATA's suggestion that reinstatement was possible if the last two BSP billings were settled altered the outcome. This condition plus the Agent covering any costs associated with that process became the decision.
<b>22 July 2014</b> NSW, Australia	The Applicant was disapproved on the grounds of 2.1.8 of Resolution 818g. The Applicant had held a position of management in an Agent which had been removed from the Agency List etc. The Applicant protested that he was in a 'back room' role and provided a sworn affidavit to that effect.	Based on the evidence supplied by the parties the decision was that the Applicant was not involved in the financial affairs of the terminated Agent and 2.1.8 could not be used as the reason for the disapproval.
Decision		
Correction	Within the 15 days provided for in 2.10 of Resolution 820e IATA provided evidence in support of their decision and sought a correction. The new evidence showed that the Applicant had completed and signed the terminated Agent's application form for accreditation as CEO and was the Agent's lead player at the time of the default. The Applicant denied this and stated that he was acting on instructions from the defaulted Agent's owner.	The IATA supplied evidence was compelling and while the case was difficult to adjudicate, on that weight of evidence, had it been submitted at the outset, would have produced a different decision. IATA's original decision based on 2.1.8 of Resolution 818g was to prevail.
<b>30 July 2014</b> Multan, Pakistan	The Agent was terminated for failing to settle 50 percent of the BSP billing and settled the balance in instalments as provided for in 2.2.1 of Resolution 818g. The Agent Owner explained that both his Parents had been ill and had ultimately passed away. While he was caring for them the recovery of payments from credit clients had suffered. He had sought a time extension from IATA to raise the 50 percent but this was denied. The Agent made the point that termination action would deprive IATA of the recovery of the	At various stages the decision would have been to dismiss the request for review based on the Owner's mismanagement of the business. Staff could have pursued credit clients for payment and the Owner could have kept in touch with IATA's actions with regard to settlement options. However, the stress involved with the Parents' passing must have had some impact and hence the Agent was granted the opportunity of being reinstated subject to settling, with interest, all outstandings either in full or in instalments as provided



<u>Time &amp; Place</u>	<u>Summary</u>	<u>Decision</u>
	amount in excess of the financial security in place. IATA had claimed against the default protection insurance held by the Agent.	for in 2.2.1 or 2.2.2 of Resolution 818g, and submitting a new financial security amount as determined by IATA.
<b>5 August 2014</b> Chennai, India	The Agent was declared in default for having accumulated 3 Notices of Irregularity (NOI) within a 12 month period. The Agent sought the removal of one Notice which involved the incomplete uploading of its financial statements, i.e. the "Notes to Accounts" were omitted. On being alerted to this situation the missing documentation was submitted. Subsequently on receiving advice that the assessment had been successful the Agent had assumed that the NOI would be automatically reversed. It was not until the third NOI was issued and ticketing authority was withdrawn that the continued existence of the earlier NOI came to light.	The removal of the administration related NOI appeared to be the only way that the Agent could have its ticketing authority re-instated. As such an oversight is a severe sanction to lose accreditation, subject to having settled all BSP billings, the subject NOI was to be expunged.
<b>15 August 2014</b> Colombo, Sri Lanka	IATA sought a review of the accreditation of the Agent under the Prejudiced Collection of Funds provisions of 1.8 of Attach A to Resolution 818g. This was based on the fact that a shareholder was also a shareholder in a defaulting Agency. The Agent explained that the two Agencies were separate entities and it was understood that the outstandings would be settled on or before 31 August 2014. IATA advised that the Agent's sales had doubled since the other Agency had defaulted.	On being asked to advise the amount of financial security required now for the suspended Agent IATA advised that the equivalent of USD598.5k was needed. The ultimate fate of the defaulting Agent being unknown at this point it was decided that the suspended Agent could have its ticketing authority reinstated subject to submitting the substantial financial security referred to above.
<b>18 August 2014</b> NSW, Australia	The Applicant sought a review of IATA's decision to disapprove its application on the grounds of 'Staff' and 'Premises'. With regard to the 'Premises' matter a second site inspection was performed. This case was drawn out and in the process it was discovered that the declared staff in the Application Form was far short of additional staff subsequently found to be on the pay roll of the Applicant company. The Applicant sublet space from the floor's lessor which was found to be for sale and the Applicant had made arrangements to lease space at a totally different location.	The Application Form was incomplete and consequently a true evaluation of the accreditation-worthiness of the Applicant could not be made. IATA's decision to disapprove was endorsed and a future application could be made once the company's situation had become stable.

<u>Time &amp; Place</u>	<u>Summary</u>	<u>Decision</u>
<p><b>28 August 2014</b> Mumbai, India</p>	<p>The Agent was issued with a Nol due to a cheque from a Branch Office forming part of the BSP settlement being declared invalid as it had not been signed.</p> <p>On being advised of the shortfall by the Nol the Agent took immediate action and electronically transferred the missing amount to IATA's bank however it could not be included in the 1st batch settlement with Airlines.</p> <p>The Agent sought to have the Nol removed by submitting a "Bona Fide Bank Error" defence however despite motivating its Bank to send 3 letters to IATA none met the specifications required for same as clearly the error was that of the Agent. The Bank did confirm that there were sufficient funds in the Agent's account to cover the transferred amount.</p>	<p>The Agent was clearly the cause of the error and IATA had no choice but to issue the Nol. However, the Agent was obviously keen to be in good standing with IATA and had taken prompt steps to correct the matter hence the Nol was to be replaced with a Reprimand as provided for in sub paragraph 13.4.3 of Resolution 818g.</p>

**TRAVEL AGENCY COMMISSIONER AREA 3  
MATTERS SOLVED WITHOUT THE REQUIREMENT OF A FORMAL DECISION  
SEPTEMBER 2013 – AUGUST 2014**

**General**

Due to the number of cases handled, 53, this report condenses these into categories as follows:-

- A. IATA decisions upheld = 20
- B. Intervention of TAC resulted in a satisfactory outcome without need for a decision = 22
- C. Dismissed as application for review made outside 30 day time limit = 5
- D. ADM issues where Airline did not agree to TAC involvement = 2
- E. This leaves 4 cases to be summarised as follows:-

<u>Time &amp; Place</u>	<u>Summary</u>	<u>Outcome</u>
<b>3 February 2014</b> Auckland, New Zealand	IATA sought a review of the Agent's accreditation on the grounds of the Prejudiced Collection of Funds provisions of 1.8 of Attach A to Resolution 818g. The BSP settlement was overdue by 3 days due to Agent authorised signatory being absent.	Agency was in liquidation at settlement date time. As a result of that circumstance it was mutually agreed to close the case.
<b>4 February 2014</b> New Delhi, India	IATA sought a review of the Agent's accreditation on the grounds of the Prejudiced Collection of Funds provisions of 1.8 of Attach A to Resolution 818g. The BSP settlement was overdue by 3 days.	The Agent did not settle and default action was taken. It was agreed to close the case.
<b>24 April 2014</b> Auckland, New Zealand	An Airline had complained that the Agent had used it's company credit card for its client's ticket sales and had accumulated a significant frequent flyer reward pool which the Owner was using for P and C class travel on their services. IATA sought a review under 1.3.2 of Resolution 820e and the Agent was suspended. The Agent sought interlocutory relief which was granted as funds were not at risk and a substantial financial security was in place. The Agent advised that it owned 4 properties and a limousine company, all of which generated air mile rewards. The Agent requested that the complaint Airline be identified.	The Agent's explanation was passed to the Airline by IATA. The local Airline office consulted its Head Office and the Agent's explanation was accepted and the complaint was withdrawn.
<b>22 April 2014</b> NSW, Australia	IATA sought a review of the Agent's accreditation on the grounds of the	In light of the circumstances, IATA proposed that the Agency be terminated

<u>Time &amp; Place</u>	<u>Summary</u>	<u>Outcome</u>
	<p>Prejudiced Collection of Funds provisions of 1.8 of Attach A to Resolution 818g. The BSP settlement was overdue by 3 days.</p> <p>The Agent's parent company had gone into voluntary liquidation and the status of the Agency was a concern. Attempts were made to contact the Agent but to no avail. The liquidators could not assist and a site inspection revealed that the Agency location was a building site.</p>	<p>which was endorsed and the case closed.</p>

**NOTE:**

The number of cases handled by TAC1, acting in her capacity of Deputy TAC3 during this reporting period that were solved without the requirement of a formal decision were: **14**

They are condensed in the following categories:

- (a) Confirming IATA's decisions based on evidence on file:  
India – 1
- (b) IATA's verification of BG submissions on time or general clarifications:  
Pakistan – 1  
India – 2  
Sri-Lanka - 1
- (c) Granting extension of time to provide BG:  
India - 3  
Bangladesh – 1
- (d) Reassessment of FS:  
Bangladesh – 1
- (e) Dismissal due to ADM matters:  
Kingdom of Tonga – 1
- (f) General Transfers  
India – 2

<u>Time &amp; Place</u>	<u>Summary</u>	<u>Outcome</u>
<p><b>1 April 2014</b> Port Vila, Vanuatu</p>	<p>Agent challenged IATA's BG request, alleging some mistakes supposedly made by IATA's assessors when analysing the Agent's FS.</p>	<p>During the course of the review process it surfaced that, indeed, a mistake had been incurred by IATA's assessors and that no BG was needed from Agent since it complied with the LFC. IATA, acting on its own initiative, withdrew the BG request.</p> <p>As of the Agent's petition, TAC decided in</p>

	<p>Agent demanded IATA to cover the extra cost that he had been invoiced by his accountant for undertaking the "clarification process" with IATA, who was mistakenly requiring from the Agent the submission of a BG.</p>	<p>favour of the Agent. IATA asked for a clarification of the decision.</p> <p>The decision's reasoning as follows:</p> <p>1) Numerous decisions have been rendered by the TACs Office were Agents have been ordered to pay IATA for the extra cost that their mistakes, additional evaluations, extraordinary actions/requests had caused to IATA. Normally those extra charges have been named as "administrative fees".</p> <p>The reasoning behind these decisions has been that the Party that is causing the out of the ordinary diligence, action, event should bear the cost that that additional action will entail for the other Party. It is worth noting that those "administrative fees" have never been questioned nor challenged before by IATA (the recipient of those) nor by the Agents (the bearing part of them).</p> <p>In this case, this Commissioner has applied the same principle, the same rationale applied in those previous cases; the sole difference being this time IATA the Party that has been requested to cover the extra cost that its own administrative error caused to the Agent, who was at all times complying with the LFC and, therefore, who should have never been asked to provide a BG in the first place.</p> <p>2) This Commissioner has based her decision in Resolution 820e, Section 3 (heading Paragraph) which gives this Office &lt;&lt;power to award relief&gt;&gt; considering the &lt;&lt;facts of each particular case&gt;&gt;, in the understanding that the relief would not be expressly forbidden in the referred Resolution text.</p> <p>Furthermore, pursuant the provision in question, the potential courses of actions open to the Commissioner enumerated in the subsequent Paragraphs &lt;&lt;is an <i>indicative summary</i> of such possible courses&gt;&gt;.</p>
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