

**DECISION 2017- 12 - 18**  
**TRAVEL AGENCY COMMISSIONER – AREA 3**

Jo Foged  
685 Remuera Road  
Remuera, Auckland 1050  
New Zealand

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**Applicant: *Mahfuz Travels***

IATA Code 42-3 0367  
Sylhet, Bangladesh

**Respondent:**

Agency Administrator, International Air Transport Association (“IATA”)  
Singapore.

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**The Case and Decision:**

The Applicant was declared in default as a result of accumulating irregularities. The Applicant settled all outstanding and as a consequence of having defaulted was required to submit an additional amount of financial security (“FS”) of BDT 4,378,000 on top of the BDT 3,000,000 already in place. This action was required under section 2 of Atch A to Resolution 818g. The Applicant was issued with a Notice of Termination of 30 November 2017 should the additional FS not be in place by that date.

On 28 November 2017 the Applicant contacted this Office with the submission that according to their calculations the additional FS was not necessary and such an imposition was unjustified and this Office was requested to instruct IATA accordingly. The writer requested IATA not to take any action against the Applicant while this matter was under review.

On request IATA explained as follows:

"Consequences of Defaults to BSPs, Section 2.3 Review by the Agency Administrator... Agent needs to furnish a Financial Security equivalent to its Sales at Risk which is calculated by dividing Days' Sales at Risk by 90 days and applying that percentage to the BSP cash turnover, amount the Agent made in the highest 3 months in the previous 12 months.

Based on Agent's BSP sales from the month: Oct 16 to Sep 17, the total Sales at Risk = BDT 7,378,000. Agent needs to provide additional FS = BDT 4,378,000.

Since the Agent's bank guarantee is due to expire on 31-Dec-2017. As such for reinstatement, Agent need to submit total bank guarantee = BDT 7,378,000. "

On accepting that advice the Applicant sought further time to arrange the FS required and on prompting by this Office sought 2 months as a mortgage on a property was necessary which incurred a protracted time frame.

IATA advised that it was prepared to extend the submission date for the total BDT 7,378,000 to 15 January 2018, no doubt basing that date on the 2 months that it would take to arrange had the Applicant acted on 15 November 2017 on the request made by IATA.

The writer can understand that position to an extent; however, it would have been helpful had IATA explained the reason for the increased FS by referring to the relevant Resolution 818g provision in its 15 November 2017 letter to the Applicant. It is accepted that the Applicant could have sought advice earlier; however, the myriad of regulations for operating as an IATA Agent can be overwhelming to a small business owner. Consequently, this Office is prepared to allow the Applicant a little more time to submit the required FS. However, the Applicant will need to motivate its bank to accelerate the process involved in preparing the bank guarantee.

The Parties have complied with the provisions of Resolution 820e and were placed on notice that in the writer's judgement an oral hearing was not necessary and that this decision would be based on the written information submitted.

Based on the foregoing therefore it is hereby decided as follows:

1. The Agent is granted until Wednesday 31 January 2018 to submit a bank guarantee of BDT 7,378,000 to IATA.

This Decision is effective immediately.

Decided this 18<sup>th</sup> day of December 2017 in Auckland.

**Jorgen Foged**  
**Travel Agency Commissioner Area 3**

The following sub paragraph of Resolution 820e is brought to the attention of the Parties:

" 2.10 - within 15 days after the receipt of the decision, a Party, with notice to the other Parties, may request that the Commissioner gives an interpretation of the decision or correct in the decision any error in computation, any

clerical or typographical error, or any error or omission of a similar nature. If the Commissioner considers that the request is justified, he shall make the interpretation or correction within 15 days of receipt of the request. The interpretation or correction shall form part of the decision."

In this particular case the 15-day time frame expires on 2 January 2018.

If after having pursued this process a Party still considers itself aggrieved by this Decision the Party has the right to seek review by arbitration as detailed in Resolution 824, Section 14.

Finally I seek your authority for this Decision to be posted on the private pages of the Travel Agency Commissioner website which can only be accessed by the 3 TACs and the 12 members of the Passenger Agency Programme Global Joint Council. In the absence of advice to the contrary by 3 January 2018 I will assume that there is no objection to that action being taken.-