

Rebalancing ATOL: CAA's decision on consultation proposals to ensure a fair and proportionate scheme

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Introduction

In June 2014, we issued a consultation on proposals to rebalance the regulatory approach that we use and to extend a risk-based approach to all businesses that we regulate within the ATOL scheme.¹

The aim of the proposals was to reduce the likelihood that consumers buying from ATOL holders would be affected by insolvency and suffer inconvenience and financial detriment as a result of it. An important component of rebalancing ATOL is the introduction of the financial test for all to ensure that the ATOL badge is not associated with businesses that are trading while inadvertently undercapitalised. To this end, the proposals aimed to strengthen protection against calls on the Air Travel Trust (ATT), relating mostly to firms that are authorised to conduct less than £5 million licensable revenue.

It was proposed that this could be achieved through:

- the withdrawal of the Small Business ATOL (SBA) scheme;
- the introduction of a more risk-based approach to financial assessment for firms which conduct less than £5 million of ATOL business (as well as the introduction of a requirement to have paid up ordinary share capital of £50,000 and, where required, an increase in the level of minimum bonding to £75,000);
- revised assurance reporting arrangements from accountants so we have greater confidence in the information provided to us by ATOL holders and their accountants; and
- the introduction of an online self-assessment facility and reporting tool.

The consultation period closed in October 2014 and we received 167 responses.² We have considered the responses carefully and none of them have led us to conclude that the problems identified in our consultation do not exist, or that they do not need addressing.

¹ <http://www.caa.co.uk/docs/33/CAP%201190%20Rebalancing%20ATOL.pdf>

² <http://www.caa.co.uk/default.aspx?pageid=16785>

Taking into account the information we received from respondents to the consultation this document sets out our conclusions and our next steps.

Key decisions

We will rebalance ATOL by implementing most, but not all, of the proposals that we consulted on. We believe these decisions constitute a proportionate way to extend the risk-based approach to all businesses that we regulate under ATOL.

We have decided not to remove the SBA category ATOL licence as the best means of introducing a financial test for all. Instead everyone applying for an ATOL, including those applying for or renewing an SBA, will have to pass a financial test. Most businesses that currently have an SBA will be eligible to remain an SBA. New applicants will have to meet certain requirements for paid up ordinary share capital and bonding levels.

With effect from 1 October 2015, a minimum share capital requirement of £30,000 will apply to all firms applying for an ATOL for the first time, which is lower than the £50,000 proposed in the consultation. Bonding will continue to apply to new applicants and others who are required to provide bonds.³

We have decided to implement the revised assurance reporting arrangements for reporting accountants proposed in the consultation (although involving a broader range of accountancy bodies), and we have decided to implement an online self-assessment facility.

In reaching these decisions we have recognised that by pursuing most, but not all of our proposals, the remaining set of measures will still make considerable progress towards achieving the intended goals. The arrangements set out in this document will meet the original objective of providing a reasonable balance between giving consumers the confidence that they are unlikely to be affected by the insolvency of the ATOL holder with which they are booking, so reducing the exposure of the ATT, while allowing new, financially resilient, operators to enter the travel business.

Businesses with a high risk of insolvency, or which are trading with a balance sheet deficit, should not be licensed in an industry based on taking customer money in advance. Having in place a series of financial measures which ensure businesses are solvent and are sufficiently capitalised is a proportionate solution to reduce the likelihood of failure (and the resulting consumer

³ <http://www.caa.co.uk/application.aspx?catid=33&pagetype=65&appid=11&mode=detail&id=5435>
<http://www.caa.co.uk/application.aspx?catid=33&pagetype=65&appid=11&mode=detail&id=5436>

detriment) occurring in the first place and to reduce potential costs to the ATT. We are also of the view that third party reporting must be sufficiently competent so that financial reports are accurate and therefore licences are issued on the basis of accurate financial information.

Table 1 sets out a summary of the decisions we have made. More detail and explanation of the changes is set out in the following chapters.

Table 1 - Summary of changes

	Financial assessment	PUC	Bonding	Licence limits (eligibility criteria)
Current SBAs	Solvency test	No minimum set	No change to existing levels (subject to existing policy)	<500 passengers and <£1 million ⁴ licensable revenue
New Applicant SBAs	Solvency test	£30,000	Higher of £50,000 or 15% Year 1 £40,000 or 12.5% Year 2 £30,000 or 10% Year 3 £20,000 or 7.5% Year 4	<500 passengers and <£1 million licensable revenue
Standard ATOLs	Financial tests	£30,000	For new applicants, the higher of £50,000 or 15% Year 1 £40,000 or 12.5% Year 2 £30,000 or 10% Year 3 £20,000 or 7.5% Year 4	<£5 million licensable revenue
All ATOL holders	ATOL Reporting Accountants (ARAs) Members of Professional Accountancy Bodies ('ATOL Reporting Accountants') to be registered with their respective professional bodies to sign-off ATOL reports between October 2015 and 31 March 2016. ARAs required to be designated by their respective professional bodies to sign-off reports from 1 April 2016.			

⁴ This figure has been chosen because it achieves the objective of protecting the ATT from excessive exposure relating to the failure of businesses with very large revenues. We take the view that £1 million is an appropriate turnover ceiling for the SBA scheme. Setting the limit at this level it affects the top 5% of current SBAs. This ceiling means that those firms with licensable revenue greater than £1 million will be required to undertake more stringent financial tests.

Chapter 1

The future of the SBA scheme

The SBA scheme will be retained but we will apply some of the proposed financial testing and restrict eligibility.

Theme of responses

Some respondents supported the removal of the SBA scheme, but there was more support for its retention. Views expressed included issues over the affordability of the alternative options to comply with the ATOL scheme and concerns over barriers to entry to the market being too high.

Some SBAs indicated that the proposed introduction of financial tests could make it difficult for them to continue to operate within the scope of ATOL.

There was some acceptance among respondents that ATOL holders should be subject to a degree of financial vetting, proportionate to the size of their business.

The consultation had suggested that current SBA holders that did not want to hold standard ATOLs issued by the CAA could instead become members of 'Accredited Bodies'. Some small specialist tour operators advised us that Accredited Bodies are not currently a viable option through which they can provide consumers with ATOL protection.

In addition to considering consultation responses we discussed our intentions with the CAA's Consumer Panel⁵. The Panel advised us to be mindful of the impact any decisions may have on competition in the holiday market, from which consumers also benefit, as well as the impact those decisions might have on incentives for firms to stay within the scope of ATOL.

⁵ <http://www.caa.co.uk/default.aspx?catid=2488&pagetype=90>