

## **SCHEME AGREEMENT AND RULES**

### **TARIF Scheme Agreement**

#### **1. Scheme background and overview**

- 1.1. Since 1<sup>st</sup> April 2011 all ATOC-licensed Travel Agents /Travel Management Companies/Rail Inclusive Tour Agents "ITX" (TA/TMC/RITAs) have been required to lodge a bond or equivalent form of financial protection to provide financial cover in the event that they suffer a financial failure and, as a result, default on the settlement of monies owed to Train Operating Companies (TOCs).
- 1.2. In the context of this requirement, ATOC/RSP, in partnership with TA/TMC/RITAs and their representative bodies, developed an alternative approach to providing TOCs with financial cover, based on the economies of scale arising from the procurement of industry-level, rather than individual TA/TMC/RITAs, financial cover.
- 1.3. This industry-level Scheme is called the 'Travel Agents Reserve Insurance Fund' (TARIF) Scheme
- 1.4. TARIF is based on commercially-procured credit insurance against settlement default, paid for from a 'reserve fund' accumulated through a levy on participating TA/TMC/RITAs. The credit insurance element of TARIF is based on ATOC obtaining umbrella financial protection in respect of TA/TMC/RITAs from a commercial credit insurance provider upon payment of a policy premium.
- 1.5. This Scheme Agreement describes the background to, the Scheme and sets out how it will operate. For those TA/TMC/RITAs participating in TARIF, it is added as a schedule to the licence variation, which forms the basis for their participation in the Scheme.

#### **2. TARIF's legal structure**

- 2.1. All ATOC- licenced TA/TMC/RITAs, including TA/TMC/RITAs that trade under 'umbrella' licence arrangements, have the option of joining the TARIF Scheme in place of lodging individual bonds or equivalent financial guarantees with ATOC/RSP.
- 2.2. Those TMCs that elect to join TARIF do so on the basis of a variation to their ATOC licence setting out the terms of their participation in TARIF, along with the rules for the operation and governance of the Scheme.
- 2.3. In line with the rest of the ATOC licence, the elements concerning TARIF are governed under English law.

#### **3. TARIF Scheme governance**

- 3.1. The TARIF Scheme Management Board (SMB) oversees the ongoing operation of the Scheme in accordance with the Scheme Agreement rules and undertake decisions on: the extension or termination of the Scheme after the initial or any subsequent terms; the future of the Scheme in the event of a significant or catastrophic reduction in Scheme

funds as the result of a higher than anticipated level of TA/TMC/RITAs default in any given year of the Scheme's existence; or any change to the assessed risk or level of cover required for major participant(s) leading to a material increase in the policy premium charged by the insurer or other materially disadvantageous changes to the insurance policy

- 3.2. The SMB is comprised of representatives from ATOC (one), RSP (one), ATOC Commercial Board (one), Rail Settlement Plan Board (one) and one member each from the secretariats of the following travel industry bodies: Guild of Travel Management Companies (GTMC), Advantage Travel and The Association of British Travel Agents (ABTA).
- 3.3. The SMB meets at least twice a year to oversee the operation of the Scheme and at other times, as necessary, to deal with possible extensions to or termination of the Scheme, and to exercise its responsibilities in the light of a significant or catastrophic default(s) or changes to assessed risk or insurance cover levels that have a material impact on the economics of the Scheme.
- 3.4. Members of the SMB are responsible for ensuring that they fully represent their respective communities and that they refer to these communities for guidance, as they judge appropriate, when putting forward views or making decisions
- 3.5. The SMB may, at its sole discretion, convene a working group(s) to address specific issues.
- 3.6. All decisions taken by the SMB are based on unanimous agreement with the exception of termination, which automatically results from a failure to agree an extension to the Scheme.

#### **4. Key credit insurance policy elements**

- 4.1. TARIF is based on a credit insurance policy procured by ATOC/RSP. A copy of the policy is available separately.
- 4.2. The terms of the policy are fixed by the insurer and contain obligations on the part of ATOC/RSP and TA/TMC/RITAs.
- 4.3. The policy cover limit has been set at a level which represents estimated sales over the two highest consecutive periods by the single largest participating TA/TMC/RITA (as measured by the sale of rail products) in each year. The policy covers any number of defaults up to a cumulative maximum loss equivalent to this amount for the term.
- 4.4. Under the terms of the credit insurance a number of excess policy elements apply. The first £350,000 of claims received in the 12 month period 1<sup>st</sup> May 2015 to 30<sup>th</sup> April 2016 year are uninsured (this is called the Deductible). Any claims in excess of the Deductible are subject to a 2.5% excess.

#### **5. TARIF Scheme levy and reserve fund**

- 5.1. In order to create the Scheme 'reserve fund' which is used to pay for: policy premiums; the cost of administering TARIF; and the cost of covering the Deductible and excess amounts described above; each participating TA/TMC/RITA is required to pay a TARIF Scheme levy.
- 5.2. Participating TA/TMC/RITAs are liable for their Scheme levy contributions for the duration of the credit insurance policy period to which they have subscribed. Unless TARIF is terminated earlier than this as a result of a: significant or catastrophic loss, or changes to the insurance policy as a result of changes to the risk level or cover limits associated with major participants; or cancellation of the policy by the insurer.
- 5.3. TA/TMC/RITAs participating in the Scheme from the 1<sup>st</sup> May 2013 will be liable for levy contributions for a maximum of 12 months. TA/TMC/RITAs will be liable for further periods of 12 months or 24 months should TARIF be extended (dependant on the specific credit insurance policy entered into), and should they elect to remain participants.
- 5.4. For the policy year 2015/16, participating TA/TMC/RITAs in the scheme from its inception in May 2011 are required to pay a levy of 0.09% of annual sales. TA/TMC/RITAs who joined TARIF after May 2011 will continue to pay the applicable levy as outlined in clause 6.5. This charge is collected by ATOC/RSP as part of the periodic settlement arrangements for TA/TMC/RITAs and the payment is made by direct debit.
- 5.5. The level of levy is based on financial modeling of the Scheme taking into account: the specific terms of the credit insurance policy; the anticipated growth in the market; anticipated annual losses; anticipated earnings through interest on the reserve fund and the cost of administering the Scheme.
- 5.6. Scheme levies are paid into the Scheme reserve fund, which will increase until the point is reached where there are sufficient funds available in TARIF to cover: policy premiums; the uninsured Deductible and excess elements associated with the credit insurance policy; the annual cost of running TARIF for the remainder of the insurance term; and anticipated annual losses (set at a level of £100k per annum). At this point the Scheme will be 'fully funded'.
- 5.7. The SMB must set levies for any extension(s) of the Scheme beyond this point at a rate that will allow the Scheme to remain fully funded for the duration of any such extension(s) taking into account: the anticipated growth in TA/TMC/RITA revenue; future administrative costs; anticipated interest payments; and anticipated losses (set at £100k per annum).
- 5.8. Should at the end of any financial year, the reserve fund contain funds in excess of those required for it to be fully funded, the SMB will consider the extent to which the levy for the next year or any further extension of the Scheme be adjusted to reduce the reserve fund to the level at which it is again fully funded.
- 5.9. All TARIF levies are paid into a separate Rail Settlement Plan (RSP) bank account that is interest-bearing at commercial rates. Interest earned from the monies contained in the reserve fund is retained within the fund for use by the fund. Account statements are made available to the SMB on a quarterly basis or upon request.

- 5.10. All Scheme participants receive an annual statement made up to the 30<sup>th</sup> April each year, that confirms the total value of the fund with a breakdown of the movements during the year, the cumulative total fund contributions and the cumulative total fund contributions that they have made. The annual statement is made available within 2 months of the scheme year ending.

## **6. Entry criteria to the Scheme**

### ***Licensed TA/TMC/RITAs entering from the commencement of the Scheme on 1<sup>st</sup> May 2011***

- 6.1. TA/TMC/RITAs who generated over £250K of rail revenue over the two highest consecutive sales periods in the thirteen RSP accounting periods preceding the commencement date of the TARIF Scheme (1<sup>st</sup> May 2011) were required to meet credit and status checks undertaken by the insurer.
- 6.2. TA/TMC/RITAs, which generated less than £250K of rail revenue over the two highest consecutive sales periods in the thirteen RSP accounting points preceding the commencement of the TARIF Scheme, needed to record an average rating, or above, through the CoCredo credit vetting service where a report for the TA/TMC/RITA concerned was available. Where it was not possible to undertake such an evaluation, the TA/TMC/RITA in question needed to demonstrate a sound payment history (no instance of late settlement or default) in respect of ATOC rail sales over the previous 3 financial years.
- 6.3. TA/TMC/RITAs who did not meet the required criteria were ineligible to join the TARIF scheme and were required to obtain an individual bond or equivalent form of financial protection.

### ***TA/TMC/RITAs licenced at the commencement of the Scheme but entering the Scheme after commencement***

- 6.4. TA/TMC/RITAs in this category are subject to the same acceptance criteria as described in 6.1 to 6.3 inclusive.
- 6.5. The TA/TMC/RITA is required to pay the TARIF Scheme levy rate which applied when the Scheme started or the TARIF Scheme levy rate at the point of entry, whichever is the higher. The TA/TMC/RITA pays such a rate for the first 24 months of their participation in the Scheme or to the point at which the Scheme ceases to exist, whichever is the earlier. If during this period, the levy rate increases above the initial rate prevailing when the Scheme commenced, they are obliged to pay the higher rate. After 24 months they revert to paying the levy that applied to participants after the first 24 months of the Scheme's inception or the levy prevailing at that point in time, whichever is the higher, please refer to table in 6.9.

### ***Newly appointed TA/TMCs/RITAs after scheme commencement***

- 6.6. TA/TMC/RITAs licenced after the commencement of the Scheme (1st May 2011) are required to obtain a bond or equivalent form of financial guarantee to cover their first 3 years of operation.

- 6.7. Upon completion of this initial 3 year period without any instances of late settlement or default, and fulfilment of the criteria set out in 6.1 to 6.3 inclusive, the TA/TMC/RITA is able to enter the TARIF Scheme at the TARIF Scheme levy rate which applied when the Scheme first started or the TARIF Scheme levy rate at the point of entry, whichever is the higher. The table shown in 6.9 provides information on the applicable scheme levy rates each year since the Scheme first started
- 6.8. The TA/TMC/RITA pays such a rate for the first 24 months of their participation in the Scheme or to the point at which the Scheme ceases to exist, whichever is the earlier. If during this period the levy rate increases above the initial rate prevailing when the Scheme commenced, they are obliged to pay the higher rate. After 24 months they revert to the levy that applied to participants after the first 24 months of the Scheme's inception or the levy prevailing at that point in time, whichever is the higher.

**6.9. Table of scheme levy rates since the scheme first started**

Policy Year	OR	Membership months	Applicable TARIF Levy
01 <sup>st</sup> May 2011 to 30 <sup>th</sup> April 2012		1 - 12	0.36%
01 <sup>st</sup> May 2012 to 30 <sup>th</sup> April 2013		13 - 24	0.36%
01 <sup>st</sup> May 2013 to 30 <sup>th</sup> April 2014		25 – 36	0.36%
01 <sup>st</sup> May 2014 to 30 <sup>th</sup> April 2015		37 - 48	0.18%
01 <sup>st</sup> May 2015 to 30 <sup>th</sup> April 2016		49 - 60	0.09%

***TA/TMCs where a credit limit is restricted***

- 6.10. Where the underwriter is not prepared to insure a TA/TMC/RITA to the extent necessary, the TA/TMC/RITA is required to lodge a bond or equivalent form of financial protection to cover the uninsured element, or place monies on deposit with RSP to cover that uninsured element.

**7. Procedure to be adopted in the event of a TA/TMC/RITA financial default**

- 7.1. Once fully funded, the TARIF Scheme will be able to withstand losses of up to £100k per year and remain fully funded. Annual losses above this level are deemed 'significant' or 'catastrophic' and are dealt with in section 8 below.
- 7.2. In the event of a default, ATOC/RSP/RITA will draw from the reserve fund an amount to cover the financial loss experienced. For the avoidance of doubt, ATOC/RSP have the right to recover losses from the reserve fund even if such losses are at the level defined as significant or catastrophic in section 8.
- 7.3. On each occasion that a loss is recovered, ATOC/RSP will write to the SMB advising them of the loss and providing the relevant information from the administrators or court decision to substantiate its recovery of losses.
- 7.4. In the event that, following the insolvency of an agent, any monies are subsequently recovered by the Receiver, which are not then required for reimbursement of the insurer, such monies will be returned to the fund.

## **8. Procedure to be adopted in the event of a significant or catastrophic loss**

- 8.1. A significant loss is deemed to occur when the cumulative ATOC/RSP recovery of losses from the Scheme exceeds £100k in any one year. A catastrophic loss occurs when the single largest TA/TMC/RITA covered by the Scheme defaults and ATOC/RSP draw upon the Scheme to the fullest possible extent.
- 8.2. Should either a significant or a catastrophic loss occur the SMB will meet as soon as is reasonably possible and discuss whether the Scheme should continue or be terminated.
- 8.3. In pursuing such discussions the SMB will consider the extent to which the Scheme is not fully funded, the impact of losses on the insurance policy and any new or increased levy required to restore the Scheme to the position of being fully funded.
- 8.4. The SMB must decide within two calendar months of a significant or catastrophic loss occurring whether the Scheme should continue and, on what, terms, or be terminated. In the event of termination, the conditions set out in section 12 will apply.

## **9. Ongoing monitoring of participating TA/TMC/RITAs**

- 9.1. The projected annual revenue for each participating TA/TMC/RITA will be monitored by ATOC on a four weekly basis to ensure that this is consistent with the limits set under the credit insurance policy.
- 9.2. For TA/TMC/RITAs with an insured policy limit of up to £250k per year, ATOC/RSP can adjust the level of cover to match its projected revenue for the year for that TA/TMC/RITA up to a maximum of £250k, providing that, at the point of the change to the insured policy limit, the TA/TMC/RITA concerned has an average or better risk rating through the CoCredo credit vetting service and provided there have been no instances of late settlement or default in the three years prior to the date of the change to the insured policy limit. ATOC/RSP will keep a written record of all such changes to insured policy limits.
- 9.3. For TA/TMC/RITAs with an insured policy limit of more than £250k per year ATOC/RSP can request from the insurer a change to the level of cover for a specific TA/TMC/RITA at any time. The insurer will consider any such request on the basis of a financial assessment of the TA/TMC/RITA concerned. Any uplifting of the insured limit would be conditional on the TA/TMC/RITA having no instances of late settlement or default in the three years prior to the date of change to the insured policy limit.
- 9.4. For TA/TMC/RITAs with an insured policy limit of more than £250k per year, the insurer will be responsible for ongoing assessment of risk. ATOC/RSP will also have a responsibility for monitoring TA/TMC/RITAs in this category and is required to pass any market intelligence, of which it becomes aware, to the insurer where this could impact the trading status of these companies.
- 9.5. For TA/TMC/RITAs with an insured limit of less than £250k per year, ATOC will be responsible for the ongoing assessment of risk. ATOC will discharge this responsibility by completing a risk assessment by the 30th September of each year of each insured TA/TMC/RITA in this category.

- 9.6. This risk assessment shall take the form of ATOC obtaining a report for each TA/TMC/RITA, where available, from the CoCredo credit vetting service or any successor credit vetting service agreed with the insurer.
- 9.7. ATOC will provide a report to the insurer on the results of its risk assessment highlighting any TA/TMC/RITA where the credit rating was worse than average or where, in the absence of a CroCredo credit report, the TA/TMC/RITA has recorded instances of missed or late settlement during the previous years.
- 9.8. For each of those TA/TMC/RITAs highlighted, ATOC and the insurer will develop an action plan. Such action plan may involve one or more of the following: more detailed discussion with the TA/TMC/RITA; further analysis of its financial position; the imposition of additional reporting arrangements for the TA/TMC/RITA; the imposition of changes to its settlement arrangements.
- 9.9. From time to time ATOC/RSP will receive alerts from the CoCredo risk review service about the participating TA/TMC/RITAs. Upon receipt of this information and where such information is of a material nature, as defined by the insurer, these alerts will be brought to the attention of the insurer and a plan of action agreed between ATOC/RSP and the insurer to investigate the outlet concerned.
- 9.10. For any participating TA/TMC/RITA that fails to provide settlement to RSP on the due date, the following process will be undertaken:
  - 9.10.1. ATOC/RSP will contact the TA/TMC/RITA in question to determine the reason behind the failure to pay on time. Once the circumstances have been established ATOC/RSP will decide whether there will be a requirement to suspend Ticket Issuing System (TIS) access.
  - 9.10.2. The TA/TMC/RITA will be instructed to make a CHAPS payment for the outstanding amount with the requirement that this is settled with monies received by RSP within two full working days of the request.
  - 9.10.3. If the TA/TMC/RITA is able to demonstrate that the default is a one-off event due to factors outside of the TA/TMC/RITA's control and funds are subsequently received by RSP within two full working days of the due date, then the TA/TMC/RITA will be entitled to remain a participant in TARIF.
  - 9.10.4. If the TA/TMC/RITA fails to pay RSP within two full working days of the due date then their Ticket Issuing System (TIS) will be suspended. Upon settlement of the full amount ATOC will give due consideration to the resumption of their TIS access, but only on the basis that the agent lodges a bond or equivalent form of financial protection with ATOC/RSP within one month of the original date of settlement.
  - 9.10.5. Upon receipt of a bond or equivalent financial guarantee by ATOC/RSP the TA/TMC/RITA's participation in TARIF will be terminated. Should a bond or equivalent financial guarantee not be received, ATOC/RSP will issue a licence termination notice to the TA/TMC/RITA. The TA/TMC/RITA's participation in TARIF will cease at the point that their ATOC licence terminates.

9.10.6. For the avoidance of doubt ATOC/RSP shall be entitled to recover any losses related to the TA/TMC/RITA from the insurer and/or reserve fund up to the point at which the TA/TMC's participation in TARIF ceases.

9.11. Neither ATOC/RSP, nor other members of the SMB, nor any participating TA/TMC/RITA shall be held liable in any way should a participating TA/TMC/RITA default on settlement.

9.12. Should the insurer's own ongoing assessment of the risk associated with major participants in the Scheme materially worsen resulting, where permitted under the policy terms, in materially disadvantageous changes to the insurance policy (such as, but not limited to, the discontinuation of cover for a TA/TMC/RITA that will have a material effect on the finances of the Scheme), the SMB will meet as soon as is reasonably possible and discuss whether the Scheme should continue or be terminated.

## **10. ATOC/RSP Scheme management fee**

10.1. Scheme administration costs will be recovered through an ATOC/RSP fund management fee. This annual charge will be recoverable through the reserve fund and will cover the costs associated with the provision of staff resources and management of the Scheme.

10.2. The annual fee is subject to approval by the SMB and ATOC/RSP will submit an annual budget that shows the breakdown of the costs. The annual fee for the financial year 2011/12 will be £50,000 and this will be recovered from the fund in quarterly instalments.

## **11. Extensions to TARIF after initial term**

11.1. Twelve months prior to the end of the term, ATOC/RSP will enter into discussions with the insurance broker to determine the policy terms for a Scheme extension applicable from 1<sup>st</sup> May the following year.

11.2. The policy terms for any Scheme extension and the applicable Scheme levy will then be discussed by the SMB. The SMB will agree a proposed Scheme levy for the Scheme extension period and this will be communicated to TARIF Scheme participants by 30<sup>th</sup> June.

11.3. TARIF Scheme participants will have until 30<sup>th</sup> July to confirm their acceptance or otherwise of the applicable terms and their wish to extend their period of participation in TARIF to cover the extension period.

11.4. The SMB will decide by 30<sup>th</sup> September whether the future levels of TA/TMC/RITA participation in the Scheme is sufficient to continue its existence. If it is deemed that the future level of participation is sufficient, ATOC will arrange for all participating TA/TMC/RITAs to enter into an extension agreement by the 31<sup>st</sup> October will then enter into a new credit insurance agreement by 30<sup>th</sup> November.

11.5. The SMB may decide to amend the sequence of dates set out in sections 11.1 to 11.4 if it believes this to be advantageous. In the events of such a change, ATOC/RSP will inform Scheme participants of the change.

- 11.6. Should the SMB decide that there is an insufficient level of future participation for the Scheme to continue, it will be terminated and the conditions set out in 12 will apply.
- 11.7. Should the SMB decide that the Scheme be extended all previous contributions from participating TA/TMC/RITAs that have elected to remain in the Scheme will be retained within the reserve fund.
- 11.8. The previous contributions of TA/TMC/RITAs who choose not to continue their participation in TARIF will be returned to those TA/TMC/RITAs net of their share of the cost of premiums, administrative costs, incurred losses and interest earned. Incurred losses will include any settlement payment defaults where the settlement payment relates to tickets issued in the relevant participating period. The value of the funds to be returned will be calculated on the same basis as that described in 12.1 and 12.2. Any funds that are due to be returned will be remitted within two months of the end of the relevant Scheme year.

## **12. Termination of the TARIF Scheme**

- 12.1. Should a decision be taken to not extend the Scheme beyond its current term, the remaining sum in the reserve fund (which will be accumulated contributions and interest earned, net of premiums, administrative charges and any losses), will be returned to participating TA/TMC/RITAs within two months of the end of the relevant Scheme year.
- 12.2. Each participating TA/TMC/RITA will receive a share of the remaining funds proportionate to its share of the total contributions to the reserve fund from the participants in the Scheme at the time of determination. The formula to be used for such calculations has been set out below:

*TA/TMC/RITA contributions during membership of Scheme /total contributions received during total duration of Scheme x net amount in reserve fund at the end of policy term (or point of termination if this is not coincidental with the end of the policy term)*

- 12.3. Should the SMB decide to terminate the Scheme, as the result of: significant or catastrophic loss occurring; or material changes to the insurance policy as a result of changes to the assessed levels of risks or cover limits for the major participants, then this will take place at the earliest possible moment allowed by the insurance policy in place at that moment in time, subject to all policy premiums being paid from the reserve fund. Up to this point participating TA/TMC/RITAs will remain liable for payment of levies. At the point of termination, remaining Scheme funds will be returned within two months to participating TA/TMC/RITAs on the same basis as that described in 12.1 and 12.2.
- 12.4. Upon notification of termination of the Scheme, for whatever reason, previously participating TA/TMC/RITAs will have to lodge bonds or equivalent form of financial protection with ATOC/RSP within three calendar months from the date of notification of termination or by the end of the period for which insurance premiums have been paid, whichever is the later.

## **13. Changes to Scheme rules**

13.1. The Scheme rules may only be changed as the result of a unanimous decision by the SMB. Any revised rules will become immediately binding upon participating TA/TMC/RITAs. Copies of the revised rules will be sent by ATOC/RSP to all participating TA/TMC/RITAs.

**14. Rail revenues held in trust for ATOC members**

TARIF Scheme participants will be required to ensure all monies collected by them under their licence agreement, including applicable remuneration which the agent is entitled to claim thereunder, are the property of the RSP and must be held by the agent in trust for the RSP or on behalf of RSP until satisfactorily accounted for to RSP and settlement made.