



San Marino Aircraft Registry
AIR SAFETY FIRST



Issue 3

A Specialist Insight Ltd publication

THE OFFICIAL GUIDE TO AIRCRAFT REGISTRATION AND TAX

2017

CorporateJetInvestor

How to pick the right place for your aircraft

Philippe Wenker, attorney and partner at Swiss firm Blum&Grob and **Hannah Rowbotham**, senior associate at Fieldfisher in London, explain everything you wanted to know about aircraft registration but were afraid to ask.

Why is the choice of registry important?

Wenker: Aircraft have the nationality of the state in which they are registered (art. 17 Chicago Convention). The nationality of an aircraft is not only relevant when considering operational freedom (traffic rights) but it is also the state of registry that is responsible for overseeing safety, proper maintenance and operation of an aircraft, therewith, inter alia, safeguarding a lawful and safe operation and preserving the value of the asset, not only for the owner but, where applicable, also for a lender or lessor. The choice of registration for an aircraft is only one of the numerous factors to



Hannah Rowbotham, Fieldfisher

be taken into account when structuring an aircraft operation, but, for the aforementioned reasons (traffic rights, safety, value protection), are important ones.

Rowbotham: The choice of registry is important because it determines how the aircraft can be used.

Different registries have different rules and regulations as to every aspect of aircraft ownership and operation. For example, they will dictate (i) who can own the aircraft, (ii) where the aircraft can operate, (iii) who can operate the aircraft, (iv) how the aircraft can be operated i.e. privately or commercially, (v) what tax regime the aircraft (and the owner / operator) will be subject to, (vi) the maintenance and safety regulations and standards which the aircraft and its crew will be subject to and (vii) how a security interest can be granted and enforced over the aircraft.

A prospective diligent owner (and any financier) will want to take all these factors into account when deciding upon the appropriate jurisdiction of registration for its aircraft.

Are you seeing more owners looking for the ability to operate commercially?

Wenker: We have not seen particular changes in that respect lately. There are still both, owners that wish to enjoy their aircraft privately and owners that aim

to have the aircraft chartered out from time to time in order to generate revenues contributing to the costs of operation. However, what we have in fact seen is that it has become more and more difficult for smaller operators that privately manage aircraft to efficiently cope with the administrative burden of complying with increasing new regulations (such as EASA Part NCC). In this respect we noted a trend towards the choice of larger AOC-operators.

Rowbotham: The majority of the purchases and financings that we act on are in the private wealth sector and so we see limited commercial interest. Commercial operation may also mean that the use of the aircraft is restricted, with privately operated aircraft being permitted to land at a wider selection of airports.

That said, owners looking to increase yield and / or provide for usage outside the family group, are taking this into account. Certain tax structures may encourage commercial over private use too.

Any financier will want to retain a certain degree of control as to how the aircraft may be operated commercially. It is not unusual for there to be restrictions on flight hours / cycles to be incorporated into the financing agreement and for the financier to require the owner / operator to approach it for consent prior to entry into new lease and / or charter arrangements. In addition a financier would normally require the benefit of any leases or charter agreements to be assigned to it and subordinate to the financier's rights under the aircraft mortgage.

We have seen a lot of new registries lately, how do you advise a client on which registries to use?

Wenker: When evaluating the choice of registry various factors and the particular and needs for the operation of the aircraft must be taken into account, such as technical certification standards (EASA/FAA), commercial or private operation, citizenship requirements on the level of owner or operator, licenses of operator of choice, acceptance for a potential financier (reputation, rights and remedies, enforcement thereof, efficiency of law and courts etc.), tax and customs situation, to mention a few.

Today there is a quite broad choice of so-called "off-shore" aircraft registries (such as Bermuda, Cayman



Philippe Wenker, Blum&Grob

Islands, Aruba, Isle of Man, Malta, San Marino and the aircraft registries very recently launched by Guernsey and Jersey) which promote their services as being more cost efficient and customer oriented as compared to the established on-shore aircraft registries. We must say that there is in fact a certain level of interchangeability in

relation to such "offshore" registries but almost all of them have particular features which can make it interesting or suitable for an aircraft owner to go "offshore".

Rowbotham: Generally the financiers (banks) we act for have a registry in mind that they have either used previously, or the client has approached / requested.

Our clients tend to favour tried and tested registries such as the Isle of Man and the Cayman Islands.

As mentioned below, from the owner's perspective, the registry will be chosen principally according to tax planning and operational requirements.

Why would I not choose to just use my local registry?

Wenker: It is in our view fair to say that the aircraft registry of Switzerland (home of EBACE) is a very well recognised choice of registration (with more than 1,700 registered aircraft and 27 AOC-operators). It provides for a well proven, reliable and efficient civil aviation authority which was attested by the last ICAO audit report to provide for an appropriate organisation, well operating procedures and well qualifies personnel.

The Swiss aviation sector is backed by broad range of innovative and well established suppliers to the aviation industry (such as operator, banks, maintenance and completion facilities etc.). However, as it may be true for all established on-shore aircraft registries, business aviation may sometimes not in every respect be treated with first priority (as compared to scheduled airlines) and there may be sometimes good reasons to choose a more flexible "offshore" aircraft registry.

Rowbotham: In deciding where to register an aircraft, it will not simply be a case of looking to the local registry. The choice of registry will have implications for both the owner of the aircraft and any financier. It is often a balancing of the interests of these parties that leads the decision.

For the owner of a corporate jet, which ultimately is

Cayman Islands Aircraft Registry – Soaring to New Heights



CIVIL AVIATION AUTHORITY
OF THE CAYMAN ISLANDS
www.caacayman.com



VP-C Online
CAYMAN ISLANDS AIRCRAFT REGISTRY

often an ultra high net worth individual, whilst their domicile / base and the proposed geographical use of the aircraft is of important, tax planning (notably VAT) will always have an influence. For example, if an owner is looking to operate their aircraft in the EU, Temporary Importation to ensure free circulation in the EU may be a persuasive factor. We have seen the use of bespoke structures across a number of transactions – for example in the Isle of Man where an operating lease structure is often used. Note that the choice of registry will have an impact on the choice of aircraft operator too. An owner may also wish to choose a registry in a jurisdiction which is politically neutral.

For a financier lending against the aircraft, its preferences are likely to be based upon legal advice as to ease of enforcement of security in that jurisdiction and perhaps their prior experience of dealing with such a registry.

A financier will not lend against an aircraft registered in a jurisdiction where it cannot take effective security or the security cannot be enforced except by lengthy court process.

It needs to be able to enforce quickly and ideally without a court process in order to get to the aircraft if there was ever a default scenario. For this reason, jurisdictions which have signed up to the Cape Town Convention may be preferred, as well as any jurisdic-

tion which recognises an English law mortgage.

The registry's level of safety standards and operational requirements as to crew hours etc may also be taken into account – for example the N register and the G register are highly regarded by financiers in this respect.

Do you have a favourite registry?

Wenker: Besides the established on-shore registries, we have recently had very good experiences with the aircraft registries of Bermuda, Cayman Islands, Isle of Man, Malta, San Marino and others but there are no particular preferences. The choice is made, as mentioned above, on the basis of the particular needs of the owner and the aircraft operation in question.

Rowbotham: On balance, the Isle of Man.

Which would you most like to visit?

Wenker: All of them, of course!

Rowbotham: Aruba sounds like a decent place...



Lapayowker Jet Counsel, P.A
Attorneys at Law
600 N Pine Island Road, Suite 350
Plantation, Florida 33324

US +1 954 202 9600 / UK +44 (20) 38754506

Business Aviation – We serve it, we live it, we love it.

Aircraft Type Certificate: Yes, a copy of the Aircraft Type Certificate is required. Also, Expert Certificate of Airworthiness, Proof of Ownership and Proof of Deregistration are required. Charges (1 Belize dollar = 0.50 US Dollars)

- Certificate of Registration

The fee payable on application for registration of an aircraft and issue of the relevant certificate, based on the maximum total weight authorized (MTWA) of the aircraft is as follows:

- Not exceeding 6,000 lbs. \$100.00
- Exceeding 6,000 lbs. and up to 12,500 lbs. \$150.00
- Exceeding 12,500 lbs. and up to 30,000 lbs. \$325.00
- Exceeding 30,000 lbs. and up to 100,000 lbs. \$350.00
- Exceeding 100,000 lbs. \$450.00

- Certificate of Airworthiness

Upon making application for the issue or renewal of a Certificate of Airworthiness, the applicant must pay in respect of a complete year of validity as follows:

- Not exceeding 6,000 lbs. \$600.00
- Exceeding 6,000 lbs. and up to 12,500 lbs. \$840.00
- Exceeding 12,500 lbs. and up to 30,000 lbs. \$1080.00
- Exceeding 30,000 lbs. and up to 100,00 lbs. \$1200.00
- Exceeding 100,000 lbs. \$1500.00

Typical structure: There is no typical structure required for aircraft to be registered in Belize.

Operation

Private use: Yes, registration of aircraft for private use is allowed.

Commercial Air Transport: Yes, registration of aircraft for Commercial Air Transport is allowed.

Finance

Mortgage possible? There are no provisions within the Belize Civil Aviation Regulations for the registration of a mortgage.

Restriction Governing Mortgage law: Not applicable

Priority notice: Not applicable

Public Registration: Not applicable

Deregistration Power of Attorney: Not applicable

Cape Town: Belize is not a party to the Cape Town Convention on International Interests in Mobile Equipment (Cape Town Treaty).

Survey Completed by

Name: Marc Francis Ramsay

Company: Marc Francis Ramsay & Company, Attorneys-at-Law

Email: contact@mfr.legal

Phone Number: (876) 997-7999

Bermuda

Registry: Bermuda Department of Civil Aviation (tran-

Blum & Grob

ATTORNEYS AT LAW

Blum&Grob Attorneys at Law Ltd. is one of Europe's leading law firms specialized in aviation, employing more than 35 professionals with excellent qualifications, personalities, talents and commitments.

Our aviation team renders legal services to international and national clients in the aviation sector which consist of financial institutions, airlines, business jet operators, aircraft owners, completion centres and various other suppliers to the industry. Our clients benefit from the fact that our highly qualified aviation lawyers are recognized specialists with a profound knowledge with well established contacts in the global aviation industry. When handling international transactions, we are able to independently select local specialists from a proven and extensive network which suits most the needs of our client.

Our aviation experts:

- Dr Hans-Ruedi Grob, LL.M., Attorney at Law
- Philippe Wenker, LL.M., Attorney at Law
- Rolf Schilling, LL.M. (U.S. Tax), Attorney at Law, Certified Tax Expert
- Shawn Gregory, Attorney at Law

member state

Aircraft

Weight restrictions: None

Maximum Age: None for commercial aircraft; generally not more than 20 years for other type of aircraft; e.g. training aircraft.

Aircraft Type Certificate: EASA

Typical structure: Private partnership

Operation

Private use: Yes

Commercial Air Transport: Yes

Finance

Mortgage possible? Yes

Restriction Governing Mortgage law: Slovenian law

Priority notice: Generally not possible, except in case of an existing foreign mortgage on aircraft which was previously registered in a foreign register but the registration of the aircraft was transferred to the Aircraft Register of the Republic of Slovenia. Formal procedure applies.

Public Registration: Yes, in the Aircraft Register of the Republic of Slovenia

Deregistration Power of Attorney: Yes

Cape Town: No

Survey Completed by

Name: Mia Kalaš, Špela Remec

Company: Odvetniki Šelih & partnerji

Email: mia.kalas@selih.si

Phone Number: +386 1 300 76 50

Spain

Registry: Spanish Aircraft Registry (AMR) and Movable Property Registry (MPR)

Prefix: EC

Location: Europe

Country Status: Sovereign State

Aircraft

Weight restrictions: None

Maximum Age: None

Aircraft Type Certificate: Yes

Typical structure: None

Operation

Private use: Yes

Commercial Air Transport: Yes

Finance

Mortgage possible? Yes

Restriction Governing Mortgage law: Yes, under the Spanish Law on Chattel Mortgage of 1954

Priority notice: No

Public Registration: Yes, with the Spanish Movable Property Registry

Deregistration Power of Attorney: Yes. IDERA according to the Cape Town Convention and its Protocol may be submitted

Cape Town: Yes, Spanish's accession to the Cape Town Convention (Official Journal of Spain of 4 Octo-

ber 2013). The signature of the supplementary Aircraft Protocol has been executed (Official Journal of Spain of 1 February 2016).

Survey Completed by

Name: Gema Díaz Rafael

Company: Aviation Lawyer

Email: gdiazrf@hotmail.com

Phone Number: +34 618 960756

Switzerland

Registry: Swiss Federal Office of Civil Aviation (FOCA)

Prefix: HB

Location: Europe (not a member state to the European Union but member of EASA)

Country Status: Confederation

Aircraft

Weight restrictions: No

Maximum Age: No restrictions (but subject to airworthiness requirements)

Aircraft Type Certificate: EASA

Typical structure: Swiss company or (subject to supply of aircraft to Swiss AOC operator) foreign company

Operation

Private use: Yes

Commercial Air Transport: Yes

Finance

Mortgage possible? Yes

Restriction Governing Mortgage law: Swiss law

Priority notice: No

Public Registration: Yes

Deregistration Power of Attorney: Yes

Cape Town: No

Survey Completed by

Name: Philippe Wenker

Company: Blum&Grob Attorneys at Law Ltd

Email: p.wenker@blumgrob.ch

Phone Number: +41 58 320 00 00

Thailand

Registry: Civil Aviation Authority of Thailand (CAAT)

Prefix: HS

Location: Asia

Country Status: Kingdom and member of ASEAN

Aircraft

Weight restrictions: None

Maximum Age: None (however, to acquire Air Operating License, fixed wing aircraft for commercial use must not be older than 14 years from the date of production.)

Aircraft Type Certificate: State of Design - to be validated by Department of Civil Aviation (Thai DCA; Thai DCA accepts FAA and EASA type certificates. Thai DCA also accepts type certificates issued by other states whose minimum standard of Airworthiness Codes are accord to ICAO Annex 8 to the convention