



U.S. Department  
of Transportation  
**Federal Aviation  
Administration**

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February 23, 2012

[Address Redacted]

Dear [Redacted]:

This responds to your e-mail request of February 17, 2012, for preliminary information which will be placed on the FAA Chief Counsel's web site with your name and address redacted at your request.

Your inquiries are followed by the FAA's response.

#### Timescales

We note that the deadline for receiving any comments is 31st March 2012. Is it possible to give an idea of the timescales for implementation post-that date? We appreciate that you won't be able to confirm exact dates, but it would be extremely helpful to get a rough idea of the likely timescales between receipt of all the comments on 31st March 2012 and the actual publishing of the final Notice of Policy Clarification? This will help us to plan to ensure that we will be able to meet all of the requirements in time.

#### FAA Response

It is not possible at this time to give an idea of the timescales for any implementation until all comments have been received and considered.

#### Timescales (con't)

Also, could you confirm whether all of the requirements in the final Notice of Policy Clarification will be applicable from the date of publication, or whether there will be some sort of implementation deadline that falls after publication?

#### FAA Response

At this time, FAA does not have a plan with respect to implementation dates of any final policy clarification following publication. The FAA will not make a decision on this issue until all comments have been received and considered.

### Trust Agreement Wording

We will plan to make the necessary changes to the Trust Agreement wording once the requirements have been finalised. However, can you confirm whether those changes need to be retrospectively applied to any Trust Agreements that are already in force, or only for Trust Agreements that are set up post-the publication date?

### FAA Response

At this time FAA has no comment on the retrospective application of changes to the Trust Agreement wording to existing trust agreements.

### '2 Day' Information

Can you confirm that what you will require in respect of the 'location of maintenance and other aircraft records' data item is a contact name and full address for where they are stored? Will you require any other information for this particular data item (e.g. email address, telephone number?)

### FAA Response

Depending on the comments received, the FAA may elaborate on what information we expect to be provided in connection with this item.

### 25% of aggregate power to direct or remove a Trustee

The current affidavit wording is shown below. Is it sufficient, or is some additional assurance needed in the wording? If the latter, would it be possible to provide some suggested wording?

'The sole beneficiary of the trust created pursuant to the Trust Agreement is the Trustor, and the Owner Trustee is not aware of any reason, situation or relationship involving the Trustor or other persons who are not "Citizens of the United States" as defined in Section 101(16) of the Act or resident aliens as a result of which such persons together would have more than twenty-five percent (25%) of the aggregate power to influence or limit the exercise by Owner Trustee of its authority under the Trust Agreement.'

### FAA Response

FAA may address sufficiency of current assurances in a later Notice. At present FAA has not drafted new proposed wording to the current Affidavit.

### Impact on Trustee

In the current document, there are no specifics regarding what the impact/penalty is likely to

be on the Trustee if they are unable to provide the information. Is this yet to be decided? If there were an occasion where (due to circumstances outside everyone's control) the deadline was not met, presumably any penalties it would be the same as for an individual US citizen who failed to provide information – is that correct? And if so, are the penalties decided on a case by case basis or is there a 'sliding scale' of financial penalties or similar?

#### FAA Response

FAA is focusing on compliance and not penalties for non-compliance. Instances of non-compliance will be addressed on a case-by-case basis. FAA will consider all relevant information in deciding what actions it should take or what remedies, if any, it should apply. Assuming the appropriateness of enforcement action in the first place, penalties, if any, will be decided on a case by case basis subject to FAA guidelines.

With respect to providing information to FAA in a timely manner, obviously FAA expects the cooperation of all persons. This Notice, however, specifically addresses non-citizen trust registrations.

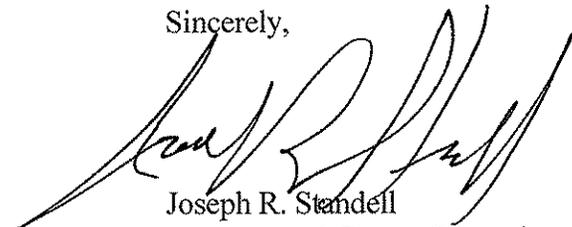
#### Deadlines

Could you confirm what the current deadlines are for an individual US citizen to provide the type of information specified in your proposals. Is there parity between the current requirements for a US-resident citizen who has an aircraft registered in his or her own name or company name, and the proposed requirements for a non-US-resident who has an aircraft registered in Trust (i.e. are the deadlines 2 days and 5 days respectively, for the different types of information, for the former example)?

#### FAA Response

As responded to immediately above, FAA has suggested the possibility of a 2 day/5 day notification specific to non-citizen trust registrations. The FAA hopes to receive comments on the notification deadlines and the other issues addressed in the proposed policy clarification from interested persons by the March 31, 2012, comment deadline.

Sincerely,



Joseph R. Standell  
Aeronautical Center Counsel