



**Federal Aviation
Administration**

PUBLIC MEETING Oklahoma City, OK

OWNER TRUSTS AND AIRCRAFT REGISTRATION

Presented by: FAA

Date: June 1, 2011

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Public Meeting: U.S. Registration of Aircraft in the Name of Owner Trustees

AGENCY: Federal Aviation Administration.

ACTION: Notice of public meeting.

SUMMARY: The FAA will be holding a public meeting on Wednesday, June 1, 2011, on the U.S. registration of aircraft in the name of owner trustees. The FAA is seeking the views from the public with respect to the use of owner trusts to register aircraft for the benefit of beneficiaries that are neither U.S. citizens nor resident aliens.



BACKGROUND

- **Trusts are commonly used by non-US citizens to meet the citizenship requirements for registering aircraft in the US.**
- **10,000 of 300,000 US civil aircraft are registered to owner trustees with non-US citizen beneficiaries.**



How does Owner Trust Registration work?

- **The US citizen trustee takes legal ownership of the aircraft (e.g., by an aircraft bill of sale).**
- **The trustee registers the aircraft as owner on behalf of the non-US citizen beneficiary.**



FAA Concerns About Non-US Citizen Owner Trust Registrations

- **FAA Surveillance and Enforcement**
- **Federal Agency Enforcement (DEA, Customs)**
- **State and Local Enforcement**
- **ICAO Responsibilities**
- **Foreign Country Concern**
- **National Security**



Treaty Obligations

For aircraft on its registry, the State of Registry must oversee:

- **Aircraft airworthiness (initial and continuing) (Chicago Convention Art. 31)**
- **Personnel licensing (Chicago Conv. Art 32)**
- **Operations of the aircraft (Chicago Conv. Art 12)**



Statute

- **49 USC 44101 – Registration**
 - An aircraft must be registered in order for it to be operated
- **49 USC 44102**
 - An aircraft is eligible to be registered in US if:
 - It is not registered in a foreign country
 - It is owned by:
 - A US citizen;
 - A permanent resident alien; or
 - Certain non-US citizen corporations [based and primarily used rule]
- **49 USC 44103**
 - If an aircraft is eligible under 49 U.S.C. 44102, FAA must register.



Regulations on Trust Registration

- **Rules applicable to all trusts (US citizen and non-US citizen beneficiary)**
 - **The trustee of an aircraft must hold legal title**
(14 CFR 47.7)(c))
 - **Each trustee must be either a US citizen or resident alien**
(14 CFR 47.7(c)(1))
 - **Application must include a copy of each document that legally affects a relationship under the trust (47.7(c)(2)(i))**



Regulations on Trust Registration

- **Documents required for non-US citizen beneficiary trusts:**
 - Affidavit from each trustee that it is unaware of any situation or relationship whereby a non-US citizen beneficiary would have more than 25% of the power to influence or limit the trustee's authority (47.7(c)(2)(iii).
 - The trust instrument must limit non-US citizens to no more than 25% of the power to direct or remove the trustee (47.7(c)(3).



Affidavits That FAA Accepts

Affidavits under 47.7(c)(2)(iii):

- **Trustee is a US citizen**
- **Beneficiary is not a US citizen**
- **The beneficiary has no more than 25% of the power to influence or limit the trustee's authority**



Limits on Beneficiary Power: Removal of Trustee

- **Foreign beneficiaries may not have more than 25% of the aggregate power to remove trustee**
- **Removals without cause: not okay**
- **Removals for cause: FAA has concerns if the beneficiary's power to remove is not limited in any way**
- **Does not limit beneficiary ability to terminate the trust**



Compliance Issues

- **The beneficiary may have more than 25% of the power to influence, direct, or remove the trustee because:**
 - **Some trust agreements contain contradictory provisions and/or questionable assurances related to matters specified in 47.7.**
 - **Of side agreements which revert aircraft to beneficiary.**



What FAA wants to know from public

- 1. What are the appropriate obligations to impose on a trustee of a trust with beneficiaries that are neither U.S. citizens nor resident aliens in order to satisfy the statute and regulations?**



What FAA wants to know from public (cont'd)

2. In the case of a trust with beneficiaries that are neither U.S. citizens nor resident aliens, which rights and actions must be prohibited on the part of the beneficiaries in order to satisfy the statute and regulations?



What FAA wants to know from public (cont'd)

3. Which forms of granting possession, use or operational control of an aircraft by a trustee to its beneficiaries that are not U.S. citizens or resident aliens are permitted and which are prohibited under the statute and regulations?



What FAA wants to know from public (cont'd)

4. What are the specific elements of "the trustee's authority" (14 CFR 47.7(c)(iii)) about which the FAA should be concerned, and what are the forms of influence or limitation that the FAA should proscribe?



What FAA wants to know from public (cont'd)

- 5. How may a beneficiary that is not a U.S. citizen or resident alien participate in the decision to remove a trustee in accordance with the statute and regulations?**



What FAA wants to know from public (cont'd)

6. To what extent, if any, are the 1981 and 1982 FAA interpretations cited in the Notice of Public Meeting in need of amendment?



What FAA wants to know from public (cont'd)

7. Which, if any, knowledge and information requirements (e.g., address of operator, location of maintenance records, principal hangar location) are appropriate for the FAA to impose on trustees of trusts beneficiaries that are not U.S. citizens or resident aliens?



Next steps by FAA

- **Will consider public comment, then plan next steps.**

