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U.S. Department of Transportation  
Federal Aviation Administration

Office of the Chief Counsel

800 Independence Ave., S.W.  
Washington, D.C. 20591

NetJets North America  
Mr. Bill Noe, President & COO  
41111 Bridgeway Avenue  
Columbus, OH 43219

Dear Mr. Noe,

Thank you for your inquiry to the Administrator on April 14, 2011 in which you requested a status update on three issues discussed during your meeting on February 15, 2011. Given the legal matters involved in your request, your letter was forwarded to the FAA's Office of the Chief Counsel for response. I hope you find the following information to be of assistance.

Your first request involves a proposal to modify the Declaration of International Operations form to allow for expedited temporary registration of aircraft that are being operated under a fractional ownership aircraft program. Currently, you note that the issuance of these temporary registrations (fly wires) is limited to circumstances involving aircraft operating international flights that are scheduled in advance. The request to extend the expedited temporary registration to domestic flights is necessary to allow for greater efficiency in routing fractional ownership program aircraft. Given the dynamic nature of aircraft ownership in a fractional ownership program, many program aircraft operate regularly under a temporary authorization until a permanent registration is received. While operating under a temporary authorization ("pink slip"), these aircraft must be routed to remain solely within U.S. airspace.<sup>1</sup> This routing often results in longer flight times, increased CO<sub>2</sub> emissions, and additional fuel burn.

The FAA has reviewed your request and determined that at this time, we cannot accommodate your request to amend the Declaration of International Operations form. The FAA, in recognizing its obligations under Article 29 of the Convention on International Civil Aviation to require all civil aircraft to carry its certificate of registration, also was aware of the economic burden that may result from having to ground aircraft used in

<sup>1</sup> Temporary authorizations (pink slips) are permitted to facilitate transactions in aircraft and operation of these aircraft in only U.S. domestic airspace while the owner awaits receipt of the permanent registration. As previously noted in a legal interpretation published on December 14, 1988, aircraft operating under such authority may do so prior to any FAA evaluation of the information on the application for a Certificate of Registration and the related evidence of ownership. See Legal Interpretation: Aircraft Operation Outside U.S. Pending Receipt of Registration Certificate, 53 Fed. Reg. 50208 (Dec. 14, 1988). Mere possession of the pink slip is not evidence that the applicant meets the requirements for eligibility for U.S. aircraft registration. Because of the FAA's treaty obligations under the Convention of International Civil Aviation, Article 29, which requires each civil aircraft of a Contracting State engaged in international air navigation to carry its certificate of registration, these forms cannot be used outside of the United States to authorize aircraft operation.

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international operations while awaiting receipt of the permanent registration. To assist these owners, the FAA developed the Declaration of International Operations form to allow an owner engaged in scheduled international operations to request a telex copy of the Certificate of Aircraft Registration. In order to ensure fair process to other owners waiting for aircraft registrations, the FAA limited the use of this process for only those aircraft that are to be used in scheduled international operations. While we understand the burden that this may place on NetJets' fractional ownership program, this limitation must continue so as not to negatively impact the owners who are regularly engaged in scheduled international operations and require this process for continuity of operations.

In regard to your second request, the status of the petition for exemption submitted on September 30, 2010, which if granted, would allow appropriately trained flightcrew members to update navigational databases in NetJets aircraft, we regret to inform you that this exemption is still under review. Given the nature of your request, a summary of the petition with a request for comments was required to be published in the Federal Register. Due to a processing error, the publication of the summary was delayed. The comment period recently closed on May 3, 2011. The FAA will review the comments received and respond to your petition as expeditiously as possible. In the interim, please note that we have initiated a rulemaking project which may address your request.

Finally, in response to your third request, whether the requirements for simulator only check airmen and flight instructors under 14 C.F.R. § 135.337(f) and §135.338(f) must be accomplished in an airplane consistent with recent guidance, we have reviewed this guidance and determined that it requires revision. The FAA amended these provisions on June 17, 1996 to allow some experienced pilots who are not medically eligible to hold the requisite medical certificates to continue to perform check airmen and flight instructor duties in simulators. This revision established two classes of check airmen and flight instructors (airplane and simulator) and created training requirements and recency of experience requirements for these check airmen and flight instructors. Sections 135.337(f) and §135.338(f) provide that the recency of experience requirements may be accomplished by either flying two flight segments as a required crewmember for the type, class or category of aircraft involved within the 12 months preceding the performance of any check airmen or flight instructor duty in a simulator, or by satisfactorily completing an approved line observation program within the period prescribed by that program before performing any check airman or flight instructor duties in a simulator. In response to comments to the proposed rule, the FAA clarified that the "recency of experience requirements can be met either in an airplane or in a simulator (that is, by accomplishing two flight segments or an approved line-observation program)." 61 Fed. Reg. 30734, 30738 (June 17, 1996). Based on this clarification and further legal interpretation, the guidance material is being revised to reflect that the recency of experience requirements of §135.337(f) and §135.338(f) may be accomplished in a flight simulator.

We appreciate your patience and trust that the above responds to your concerns. If you need further assistance, please contact my staff at (202) 267-3073. This response was prepared by Anne Bechdolt, an attorney in the Office of the Chief Counsel's Regulations Division,

and was coordinated with the FAA Aircraft Registry, and Air Transportation Division of Flight Standards Service.

Sincerely,

Marc Warren,  
Acting Chief Counsel, AGC-1